

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 419

Docket No. 419
File 890225

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad Company
 (Former Missouri Pacific)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when District Welder Rudy Vopata assessed an "indefinite suspension" of his Welder's seniority effective February 15, 1989.

(2) Claim in behalf of Mr. Vopata for reinstatement of Welder's seniority and all wage loss beginning February 15, 1989.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board for that purpose.

Claimant Welder, on January 11, 1989, was making a field weld and in attempting to stop a leak he used a sand bentonite mixture (also known as a mud ball) in an attempt to stop the leak. While doing do, the molten metal ran over the cuff of his glove and caused a burn to his hand.

Claimant was notified to attend a formal investigation on the charge of "his failure to comply with current instructions while making field weld resulting in your sustaining a personal injury." As a result thereof, Carrier found him culpable. Claimant was given an indefinite suspension as a welder and forbidden to exercise his seniority as a welder helper.

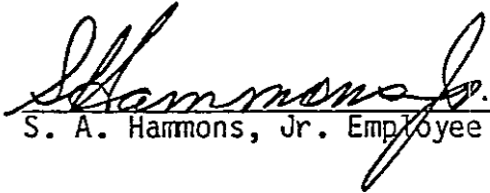
This claim will be sustained because of a violation of Rule 12, the discipline rule. When discipline is assessed it must be definite as to its assessment, what it is and for how long. In the instant case Claimant was given an "indefinite suspension." Also, because the rules were not well articulated as well as the rules for welders, apparently, were not distributed.

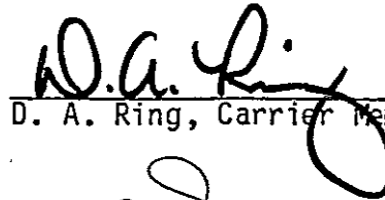
Claimant, prior to the investigation, was in the dark as to how a mud ball was to be placed. Welder Helper Ray was familiar with the use of a stick only because the organization selling the material to the Carrier came out and showed them how to do it. There a question is raised as to whether the charge was precise or not. It was precise as to the fact that he sustained a personal injury but he had

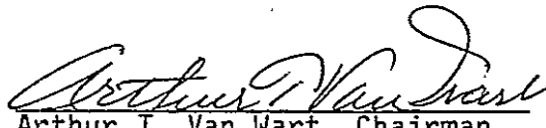
no knowledge as to why and could not prepare a defense therefor.

Award: Claim sustained as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.


S. A. Hammons, Jr. Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued April 30, 1990.