

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 468

Case No. 468
UP File 900140

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

Statement

of Claim: 1. Carrier violated the agreement, especially Rule 12, when Trackman Driver E. Barnes, Jr. was assessed a thirty (30) day actual suspension from service on January 16, 1990.

(2) Claim on behalf of Mr. Barnes for wage loss suffered beginning February 1, 1990, until March 3, 1990,

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board therefor.

The Claimant, Trackman E. Barnes, Jr., following a formal investigation, held January 17, 1990, on the charge:

"alleged failure to wear eye protection where required while employed as Machine Operator on Gag 3850...on or about December 13, 1989."

was concluded to be culpable. He was assessed a thirty (30) day suspension as discipline therefor.

Rule 4013(a) reads in part:

"All employees must wear eye protection at all times while on duty..."

and "at maintenance of way work sites..., safety glasses are required."

Claimant was accorded the due process to which entitled under Rule 12 - discipline.

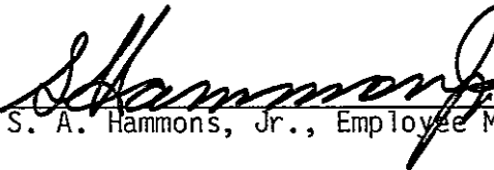
There was sufficient evidence adduced, including the admissions of Claimant, to support Carrier's conclusion as to his culpability. The question of credibility was resolved by Carrier when it accepted the testimony of its witnesses over the assertions of the Claimant, despite his own admission of non compliance. But for a battery exploding when the Claimant crossed the cables from his welding machine, the Claimant's failure to wear safety glasses may not have come to the surface.

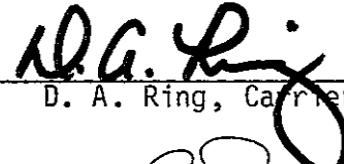
The glasses safety introduced by the Claimant at the hearing and most of the rationale offered by the Claimant is found not to be a cause for relieving the Claimant of his culpability. Claimant, simply, was not in compliance with Rule 4013(e).

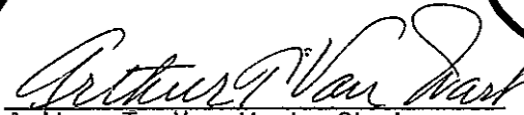
Manager, Engineering Maintenance, G. W. Thompson, said that he never issued the glasses that were in the condition of the glasses that were "put in evidence." Whereas Claimant said he did. Thompson testified that on the day prior to the accident he had issued Claimant Barnes a pair of unscratched safety glasses and instructed him to wear them. Further, there was no conversation concerning the glasses being scratched or that the Claimant may have required prescription glasses. The Claimant's assertions that were unsubstantiated remain simply that.

The discipline was not unreasonable.

Award; Claim denied.


S. A. Hammons, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued March 20, 1991.