

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 503

Case No. 503
File 900618

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

Statement

of Claim: Claim on behalf of D. H. Ross, SSN 290-64-5117 who was dismissed account he was found to be in violation of Carrier rules due to his operating a Company vehicle without authority; being involved in an accident while operating the vehicle without authority at which he was at fault; and, being charged with "driving while intoxicated."

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

On August 17, 1990 a formal notice of investigation was sent to the Claimant advising him of an investigation to be held on August 28 on the charges that:

"...at approximately 8:00 P.M. on July 28, 1990, in the vicinity of East Atchinson, MO, you were allegedly involved in a motor vehicle accident with Unit 64235 in which a non-railroad vehicle was damaged. You were cited for following too closely and subsequently arrested for driving under the influence..."

The Carrier concluded therefrom that Claimant was culpable of the charge. He was dismissed from service as discipline therefor.

There was sufficient evidence adduced to support Carrier's conclusion that Claimant was guilty of the charge placed against him. The record reflects the court documents would show that Claimant was ticketed for driving under the influence and following too close. He entered a plea of guilty to the charge of driving with an excessive blood alcohol content, was fined \$300 and ordered to complete the ARTOP Program within sixty (60) days. While he completed the said program, he never paid the fine and has been directed to reappear in court.

Claimant admitted to the Manager of Maintenance of Way Equipment (1) that he did not have permission to take the truck; (2) that he had hit the car and had been arrested for DWI, (3) that he had been tested 1.1 for blood alcohol and

also had received a citation for following too close.

Although the investigation was held in absentia because of Claimant's absence therefrom he is nevertheless bound by the record developed thereat.

The discipline, in light of Claimant's personal record, is not found to be unreasonable. This claim will be denied.

Award: Claim denied.

Sol Hammons Jr.

S. A. Hammons, Jr., Employee Member

W. A. Ring

D. A. Ring, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 30, 1991.