

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 507

Docket No. 507  
File 900634

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 Trackman R. Bahe was dismissed on June 19, 1991.

(2) Claim on behalf of Mr. Bahe for wage loss suffered,  
until reinstated with seniority, vacation and all other  
rights unimpaired.

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

The Claimant, Laborer R. Bahe, following a formal  
investigation on the charge of:

"Being under the influence of intoxicants while on Company  
property on Company time on June 8, 1990..."

was found to be culpable. He was discharged from service as  
discipline therefor.

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

There was sufficient evidence adduced including the  
admissions against interest by the Claimant, to support the  
Carrier's conclusion of Claimant's culpability. The record  
clearly reflects that there was an admission of drinking  
alcohol before coming to work, that there was an observation  
of the Claimant walking irregularly and stumbling, that he  
smelled of alcohol and had slurred speech, as well as his  
supporting admissions. The unbiased observations and the  
Claimant's admissions provided proof positive.

Notwithstanding, there was cause to conclude that the  
Claimant should and will be provisionally reinstated to  
service with all rights unimpaired, but on a probationary  
basis, providing that he completes the EAP program and that  
the Claimant reports within 30 days after being notified  
thereof. The Claimant's failure to so report will be  
considered as his rejection of this last chance opportunity.


Thus, the rejection will be cause to conclude a denial of this claim and he will remain dismissed without the need or necessity of holding an investigation.

Award: Claim disposed of 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

  
R. O. Rock, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued March 24, 1992.