

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 516

Docket No. 516
File 910025

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Machine Operator S. Harris was suspended from service on July 12, 1990.

(2) Claim on behalf of Mr. Harris for wage loss suffered, beginning August 1, 1990 through and included October 29, 1990.

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

The Claimant, Machine Operator, S. Harris, following a formal investigation held on July 3, 1990 on the charge:

"...reported collision between the DBS-8901 and the ATS-219T, while you were working on tie gang 9165, on the Longview Sub Division near M.P. 12.50 at approximately 1:30 PM on Friday, June 15, 1990."

The Carrier concluded therefrom that he was culpable of the charges placed against him. A 90 day actual suspension was imposed as discipline therefor.

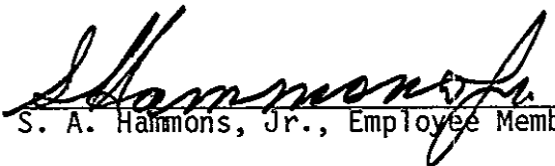
The Claimant was accorded the due process to which entitled under Rule 12.

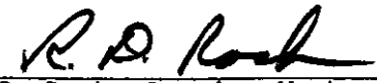
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability. The record reflected that Claimant's machine struck the other stopped machine causing approximately \$30,000 - \$35,000 worth of damage. The Claimant's machine, after being tested, revealed it could have been stopped at approximately 7 pole lengths. Hence, if the machine had been operated at 15 MPH, as contended, it should have only taken 1 to 2 pole lengths to stop the machine. The Claimant's defense that the brakes were bad and had been reported the night before the incident, even if true, does not remove responsibility for the Claimant's necessary compliance with the rules.

Notwithstanding, the discipline will be reduced to sixty (60) days actual suspension. The claim will be adjusted therefor.

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.