

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 525

Docket No. 525

File 910059

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 Track Foreman D. Hunter and Trackman L. Martin were assessed a 60-day suspension on October 5, 1990.

(2) Claim on behalf of Messrs. Hunter and Martin for wage loss suffered, beginning October 6, 1990 until December 4, 1990.

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

The Claimants, Track Foreman D. H. Hunter and Trackman L. Martin, Jr., Gang 1612, were required to attend a formal investigation on September 25, 1990 on the charge:

"...you were observed sleeping while on duty at Union Pacific Railroad Company vehicle, Unit #64498, while parked near the Government lead track, Tioga, LA. on August 28, 1990."

The Carrier concluded therefrom that the Claimants were culpable and imposed a sixty (60) days actual suspension as discipline therefor.

Rule 602 reads:

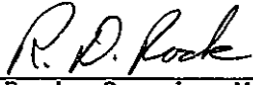
"Employees must not sleep while on duty. Employees who are in the reclining position with eyes closed will be considered in violation of this rule."

Claimants were accorded the due process to which entitled under Rule 12.

There was sufficient competent evidence adduced to support the Carrier's conclusion as to the Claimants' culpability. The employees were observed in a reclining position with their eyes closed around 10:00 AM for a period of 5 to 7 minutes and the supervisor concluded that the Claimants were in violation of Rule 602.

Absent a showing of bias, prejudice or somehow "trying to get even," the rationale of the prone position and closed eyes of both Claimants, the Employee contentions must be deemed to be spurious and lacks credibility. The Carrier's decision was supported by the evidence adduced.

Award: Claim denied.

	
S. A. Hammons, Jr., Employee Member	R. O. Rock, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued April 24, 1992.