

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 526

Docket No. 526
File 910060

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 G. L. Johnson was dismissed on October 2, 1990.

(2) Claim on behalf of Mr. Johnson 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, Machine Operator, Gail L. Johnson, and
Trackman-Driver R. W. Curry, were involved in an altercation
on September 6, 1990 that caused a formal investigation to
be held in connection therewith. Both participants were
discharged from service as discipline therefor.

Claimant Curry was returned to service on a leniency
basis with all rights unimpaired but without pay for time
out of service. Curry was required to meet with a
designated Carrier manager, prior to returning to service,
to reach a full and complete understanding as to the terms
of the reinstatement agreement as well as his future conduct
and compliance with Carrier's rules.

Claimant was accorded the due process to which entitled
under the discipline rule.

There was sufficient evidence adduced, including the
admissions by Claimant against self interest, to support
Carrier's conclusion of the Claimant's culpability. While
Claimant chose to not accept Carrier's leniency offer, the
Board will make the same offer and return the Claimant to
service on the same basis as R. W. Curry but without pay for
time out of service subject to his passing the necessary
return to service examinations. This claim will otherwise
be denied.

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

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued April 24, 1992.