

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 551

File 910487

Docket No. 551

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

Statement of Claim: (1) Carrier violated the Agreement, especially Rule 12, when F. E. Cox was dismissed from service on April 13, 1991.

(2) Claim in behalf of Mr. Cox for wage loss suffered beginning April 13, 1991, until reinstated with seniority, vacation and all other rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board for that purpose.

Claimant was notified under date of March 9, 1991 to attend a formal investigation on the charge:

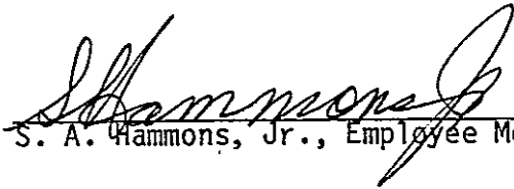
"You were allegedly insubordinate when you failed to comply with instructions given you from Track Supervisor R. D. Purtle in his letters of October 24, 1989 and November 15, 1989 to remain drug free indefinitely as evidenced by the positive drug test results of the follow-up drug test given you on February 15, 1991 at College Station, Texas...."

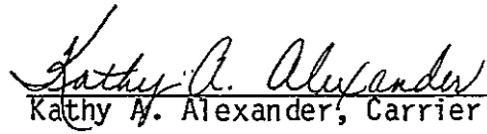
Although properly advised of the investigation, the Claimant refused to accept any mail from the US Postal Service except his paycheck. Hence, he failed to appear at the investigation and it was therefore held in absentia. As a result thereof, Carrier concluded him to be culpable. The Claimant was discharged from service as discipline therefor.

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

There was sufficient evidence adduced, despite the absence of Claimant, to support Carrier's conclusion as to the Claimant's culpability. The Claimant failed to remain clean. It is as simple as that. The Claimant was offered and failed to accept such offer to enter the EAP program as late as March 9, 1991 because he refused to receive the mail. The discipline of dismissal is consistent with the facts in this case as well as the application administered in numerous other similar cases. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy A. Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 28, 1992.