

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 552

File 910495
Docket No. 552

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when J. C. Trujillo and R. A. Herrman were dismissed from service on April 12, 1991.

(2) Claim in behalf of Messrs. Trujillo and Herrman for wage loss suffered beginning April 12, 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.

The Claimants, on April 12, 1991, were working as Machine Operators. Operator Trujillo was operating a Tamper and Operator Herrman was on the most eastern machine. He began moving the Ballast Regulator last. Claimant Trujillo also began moving his Tamper east properly spaced behind the Ballast Regulator. Somewhere in the vicinity of MP 705, at Pole 20, Mr. Herrman on the first machine (Ballast Regulator), after advising Claimant Trujillo that he was stopping and for which he never received a reply, stopped his machine. Claimant Trujillo continued moving east. He was unaware that Herrman had stopped in front of him until he was some 2 or 3 pole lengths from the Ballast Regulator at which time Trujillo saw said machine and attempted to stop. When Trujillo applied the brakes of the Tamper, the Tamper slid and although Claimant Trujillo yelled on the radio for Herrman to move, he did not. A collision with the Ballast Regulator occurred.

As a result of the investigation held in connection therewith, on April 16, 1991, both Claimants were found to be culpable. They were dismissed from service as discipline therefor.


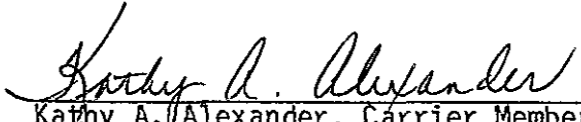
Claimants were accorded the due process to which entitled under Rule 12.

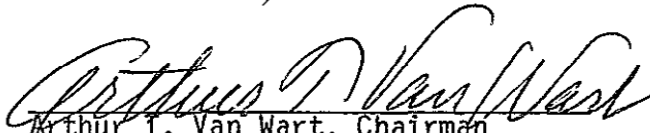
There was sufficient evidence adduced to support Carrier's conclusion of the Claimants' culpability.

In the circumstances prevailing, the discipline was unreasonable. It will be reduced to thirty (30) days actual suspension. Mr. Trujillo will be allowed the difference between the thirty (30) days and the time lost including the time held out of service. Mr. Herrman is not entitled to any payment as he is still out of service because of his injury.

Award: Claim sustained 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	Kathy A. Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued January 8, 1993.