

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 567

Docket No. 567
File 910728

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 C. A. Kennon and P. T. McGraw were dismissed from service on August 6, 1991.
(2) Claim in behalf of Messrs. Kennon and McGraw for wage loss suffered beginning August 6, 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.

Machine Operator Helper C. A. Kennon and Foreman P. T. McGraw were involved in altercation on Company property on July 12, 1991.

An investigation was conducted thereon on the charge that they were involved in an altercation in which Mr. Kennon sustained an injury. As a result thereof, Carrier concluded them both to be culpable of the altercation and they were dismissed from service as discipline therefor.

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

There was sufficient evidence adduced, including their self admissions on P-62 and P-70, respectively, that they were involved in an altercation with each other, to support the Carrier's conclusion of culpability. The record reflects that contrary to a situation of fighting by hands each Claimant possessed a dangerous weapon, one an anvil and the other a spike maul handle.

Despite their length of service, the particular incident was one that the Carrier could not either tolerate or condone. The record supports that conclusion. Dismissal, particularly where, as here, weapons are involved, is generally the appropriate remedy. See Third Division Awards 211068, 23178 and 24748. Absence a showing that the Carrier had acted arbitrarily or capriciously, the Board has no basis in this record to support any

modification of discipline. Therefore, the claim shall be denied.

Award: Claim denied.

S. A. Hammons, Jr.

S. A. Hammons, Jr., Employee Member

Kathy A. Alexander

Kathy A. Alexander, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member

Issued December 19, 1992.