

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 569

Case No. 569

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Messrs. Rodabaugh and Banks were assessed 15 days actual suspension.

(2) Claim in behalf of Messrs. Rodabaugh and Banks for wage loss suffered July 24 - August 7, 1991.

Findings: The Board has jurisdiction of this dispute by reason of the Parties Agreement establishing this Board therefor.

The Claimants, Foremen J. L. Rodabaugh and Teddy Banks, Jr., attended a formal investigation on July 15, on the charge:

"The derailment of the CWBJR-06 near MP 421.4, Coffeerville Subdivision, Van Buren Service Unit, which was caused by thermal misalignment."

As a result thereof, Carrier concluded Claimant Foreman to be culpable and imposed the discipline here appealed.

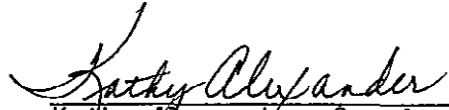
The Claimants were accorded the due process to which entitled under Rule 12. There was no error so egregious as to be cause for the reversal of the discipline. While the charge could have been more precise it was not unprecise. This is particularly so when the Claimants were involved in the incident giving rise to the need for the holding of an investigation.

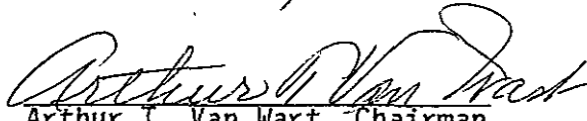
There was sufficient evidence adduced to support the Carrier's conclusion of culpability of the charge placed against them. The Claimants installed curved rail instead of straight rail and failed to use the proper composition bars which resulted in the thermal misalignment and a derailment. The rail cut in was approximately a quarter inch taller than the standard 136 pound rail when cut in. Because of the unevenness of the top of the rail the wheels of the passing train would set up a pumping type motion as it crossed each joint and the box anchor pattern were not set in accordance with the Carrier's standard, i.e., box anchor every tie for 195 feet either side of the joint.

The discipline is considered reasonable. The claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 22, 1993.