

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 578

Case No. 578.

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 D. Joubert was assessed 30 days actual
suspension.

(2) Claim in behalf of Mr. Joubert for wage loss suffered
beginning October 21, 1991 and removal of said discipline
from his record.

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

The Claimant, Track Foreman D. Joubert, was notified to
attend a formal investigation on September 26, 1991 on the
charge:

"You allegedly gave permission to the SDA 10 to occupy the
main track without having the proper protection which in
turn caused a near collision between the HOBV train and the
SDA 10."

Carrier concluded from the transcript thereof that the
Claimant was culpable of the charges placed against him. A
30 day actual suspension was imposed as discipline therefor.

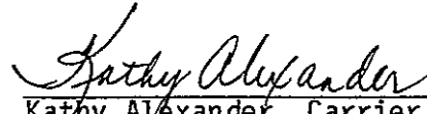
Claimant was accorded the due process to which entitled
under Rule 12.

There was sufficient evidence adduced to support
Carrier's conclusion as to the Claimant's culpability. The
record shows that Machine Operator A. Marquez (AD-10)
responded to the Claimant's radio call; that the Claimant
advised Marquez that he (Joubert) had a track warrant and
that he (Marquez) could come out of the hole and occupy the
main line. Marquez assuming that he was protected
thereunder came out with the other two spikers who went to
work in the Claimant's territory. Later the Train HOBV came
up the main and discovered Spiker AD-10 occupying it and
stopped well in the clear. The Claimant's disclaimers as to
alleged communications misunderstanding did nothing to
prevent the potential collision between Spiker AD-10 and
Train HOBV.

The discipline is deemed reasonable.

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.