

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 584

Case No. 584

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 Leroy Pulley was dismissed from service.

(2) Claim in behalf of Mr. Pulley for wage loss suffered
beginning December 11, 1991, until reinstated on February
11, 1992.

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

Claimant attended a formal investigation and charged
with:

"...your alleged falsification of injury report, Form 52032,
dated October 30, 1991, wherein you alleged you sustained a
pinched nerve in your back due to unloading a drill from a
truck by hand on October 28, 1991 at Bald Knob, Arkansas,
while you were working as a member of Gang 1029."

As a result of the investigation, Carrier concluded
that he was culpable. The Claimant was dismissed from
service as discipline therefor. However, he was reinstated
some 60 days later.

The Board finds that while Claimant was charged with
falsification of his injury report because of an allegation
that he had a pinched nerve in his neck, the facts show that
the Claimant had sustained a lumbosacral strain, which fact,
apparently, caused the Carrier to reinstate the Claimant 60
days after his dismissal.

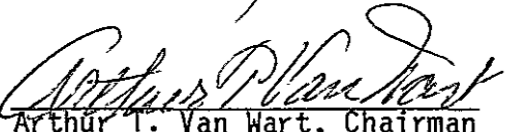
There was insufficient evidence to support Carrier's
conclusion of culpability. The Board therefore removes the
discipline assessed. However, there is no pay for the time
out of service as he was off injured.

Award: Claim disposed of 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 Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 22, 1993.