

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 603

Case No. 603
File 920620

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

Statement

of Claim: 1. Carrier violated the Agreement, especially Rule 12, when J. Young, Jr. (SSN 429-92-6989) was dismissed from service on July 28, 1992.

2. Claim in behalf of Mr. Young for wage loss suffered beginning June 29, 1992, until reinstated with seniority, vacation and all other rights unimpaired.

Findings: The Board has jurisdiction of this case by reason of the parties Agreement establishing this Board therefor.

This case is related to Award No. 602 which by reference is incorporated herein and made part hereof.

The Claimant was notified on June 29 to attend a formal investigation on the charge that on May 28, 1992:

"you were convicted of seven charges of theft by deception, based on your plea of guilty in the Municipal Court of Wynn, Arkansas on that date."

Carrier concluded culpability from the hearing held in absentia and assessed dismissal as discipline therefor.

The Claimant was accorded the due process to which entitled. The Union objected as to the action of Special Agent Woods' untimely serving the outstanding warrant on Claimant Young and arresting him before the investigation commenced and turned him over to the North Little Rock Police. One can construe hastiness on the part of Agent Woods. However, the fact remains that the Claimant, in fact, had already pled guilty to the criminal charges.

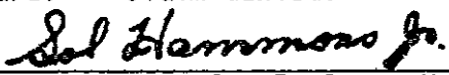
There was sufficient evidence introduced, including the court proceedings which showed that Claimant had pled guilty to the charge, to sustain Carrier's conclusions of culpability of the charge placed against the Claimant. This claim is denied. The charges were all rolled into one and the Claimant pled guilty. Special Agent Woods placed into the record all the court documents necessary to prove the


charges. Claimant pled guilty. The seven charges were all merged into one charge and the fine was to be repaid within 24 hours. It was the Claimant's failure to comply therewith and he also failed to show up in court which led to the Claimant's plea of guilty in court on May 20, 1992 to the seven charges of theft by deception which had the effect of branding him as a dishonest person.

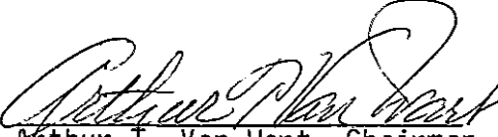
The Claimant's failure to comply with the agreement that he made in court through his attorney and his plea of guilty has placed him in the position from which he now appeals.

The Carrier's conclusion of dismissal therefor is found to be reasonable. This claim will be denied. The Carrier does not need to employ a dishonest employee.

Award: Claim denied.


S. A. Hammons, Jr. Employee Member


Kathy Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 27, 1993.