

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 620

Docket No. 620
File 930398

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

Statement of Claim: (1) Carrier violated the Agreement, especially Rule 12, when T. R. Whittenborn (SSN 496-82-6237) was dismissed from service February 3, 1993.

(2) Claim in behalf of Mr. Whittenborn for wage loss suffered beginning January 13, 1993 and continuing until Claimant is restored to service with seniority, vacation, and all other rights unimpaired.

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

The Claimant, Work Equipment Mechanic T. R. Whittenborn, was involved in a case placed before this Board previously on a charge of being absent without authority. It resulted in our Award No. 393 in which we held:

"There was sufficient adduced to support Carrier conclusion as to Claimant's culpability.

There are mitigating circumstances permitting the reinstatement of Claimant with all rights unimpaired but without pay for time out of service. However, he is admonished that this is his last chance to have an opportunity to demonstrate to Carrier and the Union that he is desirous of protecting his job by not being absent therefrom."

In the instant case, while working as Work Equipment Mechanic on Gang 9969 in the vicinity of Kansas City, MO, he absented himself November 17, 18, 19, 20 and December 3 and 4 of 1992. The Claimant had failed to secure authorization for those absences. The Carrier notified him by certified mail that an investigation was scheduled for December 28, 1992 on the charges therefor of absenteeism. Carrier concluded from the evidence adduced thereat that the Claimant was culpable of the charges brought against him by the letter dated February 3, 1993. The Claimant was dismissed as discipline therefor.

The Claimant was accorded the due process to which entitled under his agreement.

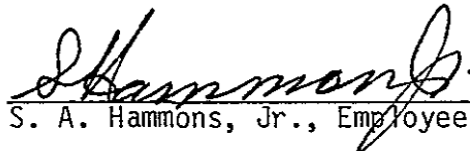
There was sufficient evidence adduced, including the Claimant's admissions against interest at T-44 that he was absent without authority from his assignment, to support Carrier's conclusion of culpability.


The Claimant acted at his own peril. There can be no clearer words than those expressing a last chance. Those words can have no meaning other than that expressed. Last is last. Therefore, this Board is without authority to modify the discipline.

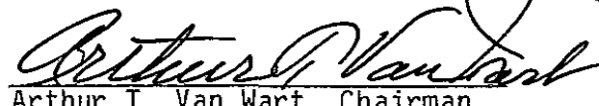
In the circumstances Claimant placed himself in that position. His work record indicates a history of absenteeism since at least 1991 where as a result of "personal business," "unauthorized absences," "sickness," "sicknesses in the family," and "for medical reasons" absenteeism occurred.

In that period of absence, excluding vacation days, some 64 days were used. A denial award will serve as well as a dismissal award.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued February 13, 1994.