

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 621

Docket No. 621
File 930402

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 J. H. Moncivias (SSN 467-45-2337) was dismissed from service March 11, 1993.

(2) Claim in behalf of Mr. Moncivias for wage loss suffered beginning March 11, 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.

Claimant Trackman-Driver J. H. Moncivias suffered an eye injury February 22, 23 and 24, 1993. He was released to duty on Thursday and Friday, February 25 and 26. The Claimant contacted the Manager of Track Maintenance T. J. Menchaca and requested vacation days for Thursday and Friday. Request was denied and he was instructed to report to work. Claimant did not report as instructed. He was notified to attend a formal investigation. As a result thereof the Carrier concluded him to be culpable on the charge of failing to follow instructions. The Claimant was dismissed from service as discipline therefor.

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

There was sufficient evidence adduced to support the Carrier's conclusion of culpability.

The record permits the Board to conclude that the Claimant should be given a last chance opportunity to demonstrate to all that he desires to work for the Union Pacific Railroad.

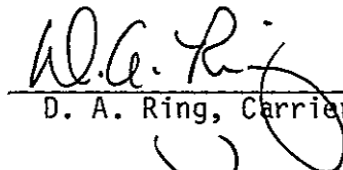
Therefore, he will be conditionally reinstated on a last chance basis with all rights unimpaired but without pay for time out of service and pass the physical examinations. Before returning to service he should meet with designated

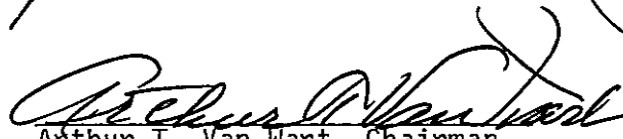
Carrier and Union representatives to review his record and clearly understand the significance of the entries.

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


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued February 13, 1994.