

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 630

Docket No. 630
File 930627

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

Statement of Claim: (1) Carrier violated the Agreement, especially Rule 12, when C. M. Essmyer, SSN 535-62-6996, was assessed a 15 -day actual suspension.

(2) Claim in behalf of C. M. Essmyer for removal of the 15-day actual suspension from his record and pay for wage loss suffered beginning June 14, 1993 through June 28, 1993.

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

The Claimant received the following notice of investigation on May 5, 1993 reading, in part:

"While working as Assistant Foreman on Gang 9161, in the vicinity of Popular Bluff, Missouri on April 26, 27, 28, 1993, you were allegedly absent without proper authority from your assigned position. There will also be a review of your personal record."


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

There was sufficient evidence adduced to support the Carrier's conclusion of culpability of the charges placed against the Claimant. The Claimant was absent April 26, 27, and 28. On April 26th he was authorized to arrive late at work. However, the Claimant never provided any evidence to his supervisors on or after the 26th or, even at the hearing, that his car broke down or that the car that he had borrowed broke down or that there were no service stations available nor did he produce any receipts of any nature. As to April 27th and 28th for which the Claimant was again given qualified permission in order to take care of some warrants subject to an offer of proof again, no proof was shown in April. It was not shown until the hearing on May 14, 1993.


The review of the Claimant's personal service record reflects that he serve two disciplinary sanctions involving

30 days for unauthorized absenteeism, account absent without proper authority. The Claimant's record also showed four letters of counsel for tardiness and absent without authority, personal leaves of absence within a recent two month period. The discipline as issued will stand.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member