

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 631

Docket No. 631
File 930675

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

Statement
of Claim: (1) Carrier violated the Agreement, especially Rule 12,
when B. G. Hooks, Jr., SSN 431-94-9057, was assessed a
letter of reprimand on September 8, 1993.

(2) Claim in behalf of B. G. Hooks, Jr. for removal of the
letter of reprimand from his record.

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

The Claimant on August 11, 1993 was driving a spike and
the spike maul glanced off spike and the handle hit him in
the groin. The Claimant Trackman Driver B. G. Hooks, Jr.,
with 19 years service, was notified to attend a formal
investigation:

"...to develop the facts and place your responsibility, if
any, in connection with your alleged personal injury
sustained on August 11, 1993."

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

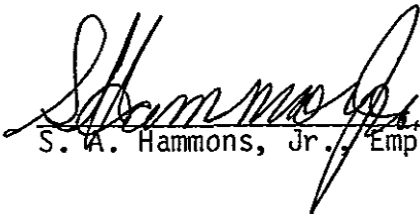
There was insufficient evidence in this record to show
that Claimant had violated either Rules I or 4005. The Board
does not agree that the evidence supports the conclusion
that because there was more than one employee spiking and
that because the employee was the only employee on that day
to be injured that it is therefore proper to draw the
conclusion that the Claimant was injured by reason of the
rules cited by the Carrier. As pointed out in Second
Division Award 6306:

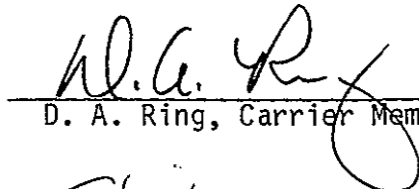
"...Undoubtedly the Claimant was injured as shown in the
record. However, the fact of an injury is not adequate to
show a violation of Rule L or a violation of a Safety Rule.
The fact that he had injuries is not controlling. It must
be shown that the Claimant caused those injuries by his own
carelessness or violation of safety rules."

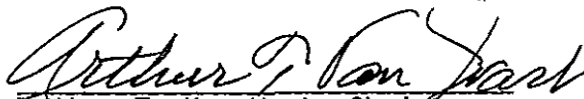
The testimony of both Carrier supervisors was that the Claimant, when observed by the supervisors, was working safely and he was not in violation of safety rules. This claim will be sustained.

Award: Claim sustained.

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 Brooksville, Florida June 27, 1994.