

PUBLIC LAW BOARD NO. 6237

AWARD NO. 5

CASE NO. 5

PARTIES TO
THE DISPUTE: Brotherhood of Maintenance of Way **Employees**

vs.

Union **Pacific** Railroad Company

ARBITRATOR: Gerald E. **Wallin**

DECISION: Claim sustained in accordance with the Findings.

DATE: April 2, 2001

STATEMENT OF CLAIM:


Was the dismissal of **Homero Martinez** for just cause?

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, Ends that the parties herein **are** Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the **parties** were given due notice of the hearing.

Given the unique circumstances demonstrated by the **evidentiary** record, the Board **finds** that Claimant **Homero Martinez** must be conditionally offered reinstatement **to** his former employment, on a leniency basis, with seniority and other rights of employment unimpaired but without back pay. Claimant's reinstatement is contingent upon entering into an **agreed** upon payroll deduction schedule to make restitution. The Organization and Carrier shall **meet** and agree upon the restitution amount. If reinstated, Claimant's time off payroll shall be recorded as a disciplinary suspension for just cause.

AWARD: The Claim is sustained in accordance with the Findings.


Gerald E. Wallin, Chairman