

**NATIONAL MEDIATION BOARD**

**PUBLIC LAW BOARD NO. 6302**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

and

**UNION PACIFIC RAILROAD COMPANY**

)

) Case No. 26

)

) Award No. 31

)

Martin H. Malin, Chairman & Neutral Member

D. D. Bartholomay, Employee Member

D. A. Ring, Carrier Member

Hearing Date: January 23, 2002

**STATEMENT OF CLAIM:**

1. The discipline (Level 2) assessed Extra Gang Foreman S. Martinez, Jr. for his alleged unauthorized absence on Saturday, December 18, 1999 was without just and sufficient cause and based on unproven charges (System File W-0048-155/1230867).
2. Extra Gang Foreman S. Martinez, Jr. shall now have his record cleared of this incident.

**FINDINGS:**

Public Law Board No. 6302, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

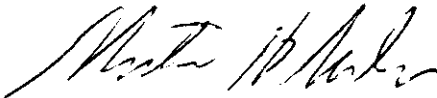
The instant case is related to Case No. 25, Award No. 30. As noted in that award, Claimant failed to work mandatory overtime on December 18, 1999. The instant case challenges the discipline imposed for Claimant's alleged unauthorized absence on December 18.

In Case No. 25, Award No. 30, we denied the claim challenging Claimant's dismissal for

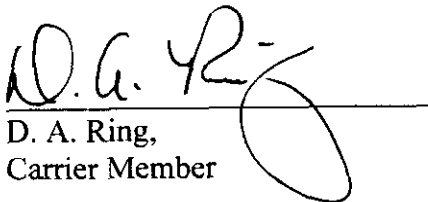
dishonesty and failure to follow instructions resulting from his failure to remove per diem payments for December 18 and 19 from his payroll. In light of that award, the instant claim is moot and must be dismissed.

**AWARD**

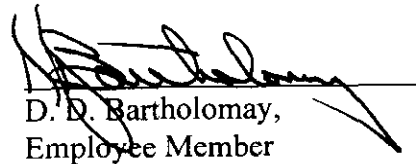
Claim dismissed.



Martin H. Malin, Chairman



D. A. Ring,  
Carrier Member



D. D. Bartholomay,  
Employee Member

Dated at Chicago, Illinois, June 14, 2002.