

PUBLIC LAW BOARD NO. 6237

**AWARD NO. 5
CASE NO. 5**

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

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, finds 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