

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the System Committee that:

1. B&B Foreman L. A. Smith's dismissal from the Carrier's service on April 22, 1965, was improper, arbitrary and capricious, and in violation of the Agreement.
2. B&B Foreman L. A. Smith, be now returned to service to the position of Foreman, with all his seniority rights, pass privileges and vacation rights unimpaired, as well as the restoration of all other rights and privileges accruing to him, which would have been his under the provisions of the effective Agreement, if he had not been dismissed from the service of the Carrier on April 22, 1965.
3. B&B Foreman L. A. Smith, be now paid for all time lost, which he could have worked, beginning April 22, 1965, up to the date on which he is returned to the Carrier's service.

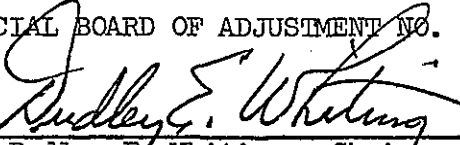
FINDINGS: The record of the investigation shows that claimant was guilty of misconduct, but the penalty of discharge was excessive.


Several factors affect the equities of our award. Claimant retired effective November 1, 1966 and could have done so in July 1965. Prior to his retirement he received unemployment compensation.


Under these circumstances we find that claimant should be reinstated as an employee with rights unimpaired until November 1, 1966 when he voluntarily released them and retired, with pay for two months at \$537.07 per month in addition to unemployment compensation received in full settlement of his claim for pay for time lost.

AWARD: Claim sustained to the extent stated in the Findings.

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Dudley E. Whiting - Chairman

  
A. J. Cunningham - Employee Member

  
G. W. Johnson - Carrier Member