

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

versus

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement when Track Foreman E. T. Johnson was unjustly dismissed by letter dated August 14, 1978.
2. Claimant E. T. Johnson shall be paid for eight hours each work day and holiday, at the straight time rate of pay for foremen, to begin August 14, 1978, and to continue until such time as he is returned to work with seniority rights and vacation privileges restores, unimpaired.

FINDINGS:

Certainly a foreman has a responsibility for the safety of the employees under his direction. In this case there are mitigating factors, lack of a latch cover on the door and the claimant's length of service and good record, which make dismissal an excessive penalty.

With respect to the remedy it appears that the claimant was injured before his dismissal, has not worked since such injury by reason thereof and has filed a claim of total and permanent disability. Hence, his wage loss was not occasioned by the dismissal and reinstatement to his job is now inappropriate, so we are constrained simply to award a restoration of his seniority status at this time.

AWARD:

Claim sustained to the extent stated in the findings.