

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 252

Case No. 252

Parties     Brotherhood of Maintenance of Way Employes  
to             and  
Dispute     Union Pacific Railroad Company  
              (former Missouri Pacific Railroad Company)

Statement  
of Claim: "Carrier violated the current working agreement, especially Rule 12, when System Rail Gang Trackman J. Nez was dismissed from service effective September 20, 1984.

Claimant Nez should now be allowed eight (8) hour each work day, including any holidays following therein and any overtime which would have accrued to him, beginning September 20, 1984, continuing until reinstated to service with seniority, vacation and other rights restored."

Findings: The Board has jurisdiction of this case by reason of the parties Agreement of January 5, 1959.

Claimant Trackman, following a formal investigation, on August 23, 1984, held in absentia, was found guilty as charged. He was dismissed from service as discipline for his violation of Rule G.

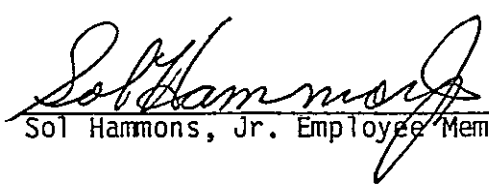
The Board finds that Claimant was accorded the due process to which entitled under Discipline Rule 12.

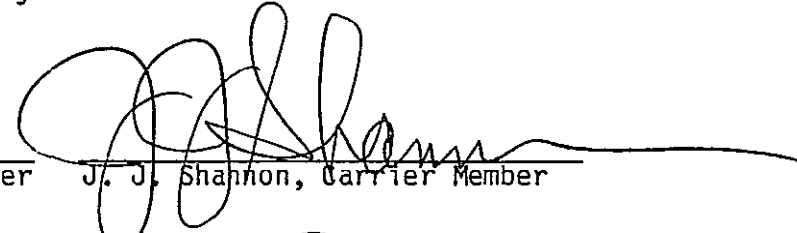
There was sufficient evidence adduced to support the conclusions reached by Carrier as to Claimant's culpability.

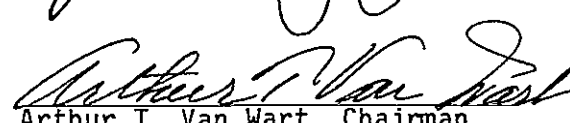
The Board finds cause to conditionally reinstate Claimant to service with all rights unimpaired but without pay for time out of service subject to his passing all Carrier required examinations, including physicals, and his attending and completing Carrier's EPA program. Thereafter, Claimant will be placed in a probationary status for one year during which his rights to the protection of Discipline Rule 12 will not be impaired. If these conditions for a last chance opportunity are not acceptable to the Claimant, within thirty days of notice thereof, then his claim will be denied at that time.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective  
within thirty (30) days of date of issuance shown below.

  
Sol Hammons, Jr. Employee Member

  
J. J. Shannon, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued November 15, 1988.