

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 289  
Case No. 289  
File No. 247-7170

Parties Brotherhood of Maintenance of Way Employees  
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 Trackman D. L. Shaw's personal record was assessed a 30-day suspension following a formal disciplinary investigation held on November 4, 1985.

Claimant Shaw should now, therefore, be allowed compensation for eight hours each work day, including any holidays falling therein and any overtime which would have accrued to him had he not been held out of service from November 1, 1985 through November 30, 1985 and discipline removed from his record."

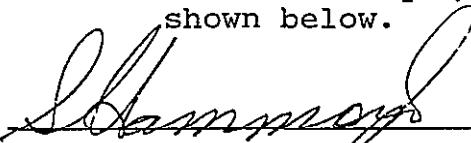
Findings:

The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant was afforded a fair and impartial hearing. The Board finds that there is substantial evidence on the record to uphold Carrier's finding that Claimant was guilty of the charged offense. The Board does not find, however, that the punishment fits the crime in this case. Having balanced the Claimant's culpability and the gravity of his proven offense against his prior record and length of service, the Board finds that a fifteen (15) day suspension is more appropriate to the infraction involved; however, Claimant is warned that conduct which borders on insubordination is a serious matter which cannot be tolerated in the work place - given the nature of railroad operations - and any future such conduct, if proven, could result in a more onerous sanction being imposed.

**Award:** Claim sustained, in part, as per findings.

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



S. A. Hammons, Jr.  
Employee Member



J. J. Shannon  
Carrier Member



Arthur T. Van Wart, Chairman  
and Neutral Member

Issued: July 28, 1988