

**SPECIAL BOARD OF ADJUSTMENT NO. 279**

**Award No.** 308  
**Case No.** 308  
**File No.** 247-7168

**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 former Trackman D. W. Newton was dismissed from the service effective October 14, 1985.

Claimant Newton shall now be allowed compensation for all time lost from October 14, 1985, including any holidays that may have fallen therein and any overtime which would have accrued to him had he not been dismissed and continuing until such time as he is reinstated."

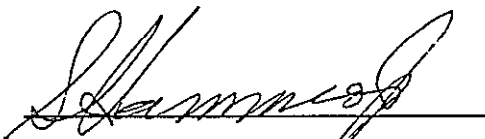
**Findings:**

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.

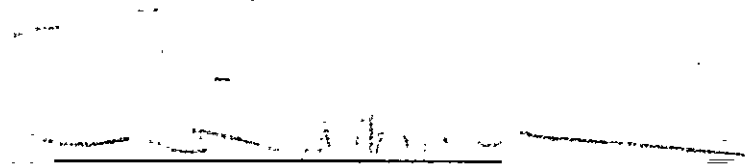
Claimant Newton was dismissed from service January 20, 1986 following a formal investigation held on January 14, 1986 on charges that he had engaged in off-duty, off-property criminal conduct which is proscribed by Carrier's General Rules.

In all the facts and circumstances, the Board finds that Claimant was afforded a fair and impartial hearing; that the Carrier's conclusions as to Claimant's guilt were founded in substantial record evidence; and that the discipline assessed - dismissal from service - was neither arbitrary, capricious nor excessive in light of Claimant's prior record of being disciplined twice within three months for dishonesty. The Board finds no basis herein upon which to disturb Carrier's assessment of discipline. Accordingly, the claim must be denied.


Award: Claim denied.



S. A. Hammons, Jr.  
Employee Member



J. J. Shannon  
Carrier Member



Arthur T. Van Wart, Chairman  
and Neutral Member

Issued: July 28, 1988