

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 320
Case No. 320
File No. 247-7428

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 the personal records of Track Foremen E. L. Jones, R. K. Wilson, and Assistant Foreman T. C. Burks and Trackman M. M. Gray were assessed with fifteen (15) days deferred suspensions following a formal disciplinary investigation held on May 6, 1986.

The deferred suspensions assessed against the personal records of Mr. Jones, Wilson, Burks and Gray shall now be removed."

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.

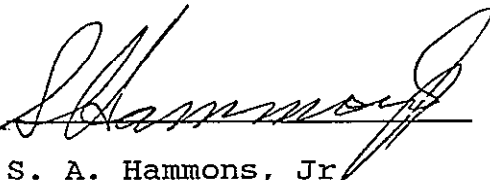
All Claimants herein were assessed fifteen (15) days deferred suspensions for their respective alleged

failures to observe Carrier's safety rules resulting in one of their number sustaining a personal injury while disembarking a Company bus on March 11, 1986.


A careful review of the record reveals that the Claimants were afforded a fair and impartial hearing. However, as to the substantive merits, the Board finds that substantial evidence was not adduced at the investigation to underpin Carrier's individual findings of guilt on the charges. The Board notes that the unsafe vehicle exit procedure was observed and acquiesced in by Carrier supervisors for sometime prior to the mishap on March 11, 1986. Therefore, in light of all the circumstances obtaining, the Board finds mitigating factors which favor Claimants and will therefore set aside the sanctions imposed and direct the expungement of their individual personal records.

Award: Claim sustained as per findings.


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