

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 340
Case No. 340
File No. 247-7318;
247-7317

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 Agreement, especially Rule 12, when Work Equipment Mechanics J. E. McKinley and T. J. Perrino were each assessed a thirty-day suspension following a formal disciplinary investigation.

"Claimants McKinley and Perrino shall now be allowed compensation for all wages lost and their personal records shall be cleared of any reference to the incident."

Findings:

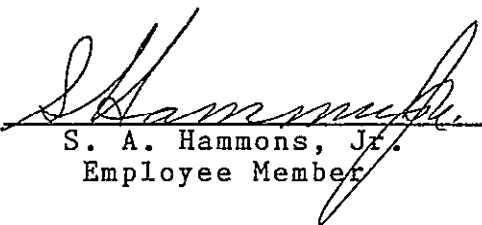
The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject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

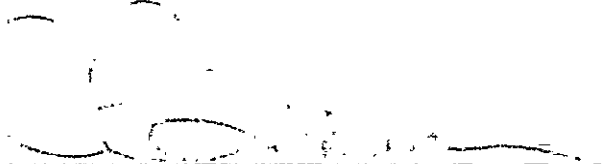
As to the substantive merits of the claims, the Board is constrained to find that the Carrier has not meet its burden of proof on the issue of whether or not substantial evidence exists, on the record, to underpin Carrier's determination that the Claimants were guilty of the rules violation.


The Board finds the discipline assessed Claimants McKinley and Perrino should be set aside and their records cleared.

Award: Claim substantiated 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