

**SPECIAL BOARD OF ADJUSTMENT NO. 279**

Award No. 345  
Case No. 345  
File No. 870435

**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 Trackman J. B. Lozano was dismissed from the service.

Claim in behalf of Trackman Lozano for eight hours each work day, including any holidays falling therein, and any overtime that would have accrued to him had he not been dismissed. Claim beginning January 19, 1987 and continuing until he is reinstated to service with seniority and vacation rights unimpaired."

**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.

A review of the record in this matter reveals that Claimant Lozano was afforded a fair and impartial hearing and that there is substantial record evidence to support the Carrier's determination that Claimant was guilty of the charges preferred.

As to the quantum of discipline assessed, the Board finds that the sanction imposed is proportionate to the severity of the offense, especially when viewed against the backdrop of Claimant's prior disciplinary record, which includes: 3 dismissals, a twenty (20) day and a thirty (30) day deferred suspension, and a thirty (30) day and a ninety (90) day actual suspension. There are no compelling mitigating factors which persuade the Board to disturb the penalty assessed.

**Award:** . Claim denied.

  
S. A. Hammons, Jr.  
Employee Member

  
D. A. Ring  
Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued on the 10<sup>th</sup> day of March, 1989  
at Tampa, Florida.