

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 349

Case No. 349
File 870605G

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad
(Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Track Foreman S. N. Olsen was dismissed from the service.

(2) Claim in behalf of Track Foreman Olsen for eight hours each work day, including any holidays and overtime, beginning April 5, 1987, and continuing until he is reinstated to service with all rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board.

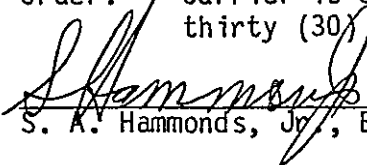
Claimant Foreman Olsen and fellow employee, Roi Albright, were charged with entering into an altercation on April 2, 1987, at approximately 5:30 PM in the vicinity of Gang 5012 outfit cars located in the Van Buren yard. As a result of the formal investigation, Claimant was dismissed from service as discipline therefor. He was returned to service under an agreement of October 6, 1988 with the right to progress his time claim. Roi Albright received 60 day suspension.

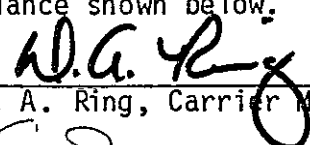
There is no question but that Claimant Olsen was the aggressor. He started the altercation which became more of a scuffle than anything else.

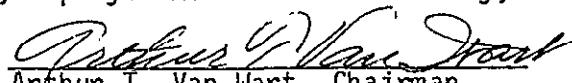
The discipline assessed was, however, disproportionate. Discipline is reduced to 120 days and Claimant is to be paid the difference.

Award: Claim disposed of as per findings.

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


S. A. Hammonds, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member