

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 362
Case No. 362
File No. 870758

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 Track Foreman J. A. Ramirez and Trackmen J. Munoz, T. S. Mitchell, L. Johnson and A. Dussette were assessed the following discipline:

J. A. Ramirez	- 30 days deferred
J. Munoz	- 30 days deferred
T. S. Mitchell	- 30 days deferred
L. Johnson	- 30 days deferred
A. Dussette	- 15 days deferred

Claim in behalf of the above employees for eight hours each work day, including applicable holidays and overtime, beginning May 25, 1987 and continuing until each individual was eventually returned to service, along with removal of the discipline in question from their records."

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 case reveals that Claimants were afforded a fair and impartial hearing.


The record is clear that Carrier found irregularities in the use of the Gelco rapid draft system and properly pursued an investigation into its misuse by Claimants; however, the Board does not find sufficient probative evidence on the record before it to support the culpability determination made by Carrier.

Therefore, the Board finds that the discipline assessed Claimants herein should be set aside and their records expunged.

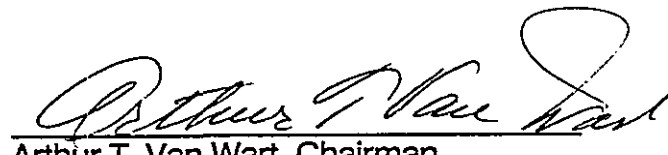
The Board has been presented evidence that Claimants were previously "made whole" with regards to any wage loss suffered; therefore, that part of Petitioner's claims for further monetary relief is denied.

Award: Claim sustained, in part, as per findings.

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


S. A. Hammons, Jr.
Employee Member


D. A. Ring
Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued on the 10 day of March, 1989
at Tampa, Florida.