

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 371
Case No. 371
File No. 870977G

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 Welder Helper P. R. Munger was assessed a 30 day deferred suspension.

Claim in behalf of Welder Helper Munger to remove 30 day deferred suspension from his record."

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 Claimant Munger was afforded a fair and impartial hearing on the charges preferred.

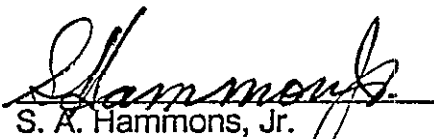
With regard to the issue of Claimant's guilt or innocence, the record does not contain sufficient probative evidence to support Carrier's culpability determination this case.

This Board is not unmindful of the fact that Carrier is entitled to prompt and factual injury reporting from its employees; however, the weight of probative evidence in this case urges the Board to conclude that Claimant Munger made reasonably prompt attempts to apprise his immediate supervisor and through him superior Carrier officers of the heat exhaustion attack he suffered on July 21, 1987.


In view of all the facts and circumstances obtaining, the Board finds that the 30 days deferred suspension assessed Claimant should be expunged from his personal record.

Award: Claim sustained 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 19 day of July, 1989
at Washington, D.C.