

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 388
Case No. 388
File No. 871090G

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 B&B Mechanic Helper Ricardo Herrera was not allowed to return to work October 1-15, 1987.

Claim in behalf of Mr. Herrera for eight hours each work day, including any overtime that would have accrued to him during October 1-15, 1987."

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 Herrera was afforded a fair and impartial hearing. There is also substantial record evidence to support the Carrier's determination that Claimant was guilty of the misconduct alleged and that dismissal from the service was the proper measure of discipline in this case.


The record also reveals that Claimant Herrera accepted Carrier's leniency reinstatement offer on September 18, 1987 and that there was some delay incurred in returning Claimant to service after that date.

On the record presented, the Board is persuaded that Claimant should not be penalized for the delays incurred; therefore, the claim for wage loss suffered from October 1-15, 1987 will be sustained.

The result reached herein is consistent with, but limited to, the facts and circumstances obtaining in the instant case.

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.