

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 389

Case No. 389

File 860078G

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 Trackman C. L. McKinnon was dismissed from the service.

(2) Claim in behalf of Trackman McKinnon for eight hours  
each work day, including any holidays falling therein, that  
would have accrued to him had he not been dismissed. Claim  
beginning September 1, 1986, and continuing until he is  
reinstated to service with seniority and vacation rights  
unimpaired.

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

Claimant, while working as a Trackman on August 29,  
1986 was observed removing Company property (a jack) without  
proper authority. Following a formal investigation he was  
dismissed from service as discipline therefor. He was  
reinstated on January 13, 1987 with the right to progress  
his claim for wages loss to a Board.

Track Foreman L. A. Floyd said he observed from eight  
feet away:

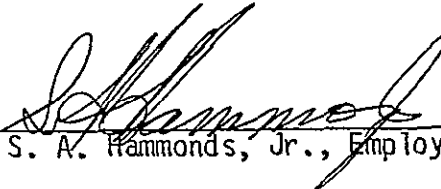
"I seen Mr. McKinnon coming out of the back of the Company  
truck with an orange raincoat with a jack placed under it  
and placed it in the back seat of Mr. Brown's car on the  
driver's side."

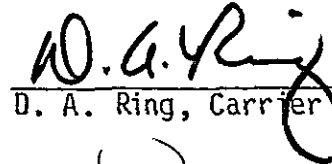
There was some discussion as to the total number of  
jacks in all the trucks. None the less there was an eyeball  
witness to the proceeding who brought the charge. Track  
Foreman Floyd reported the incident, the Claimant was  
charged and tried thereon. No credible reason was shown against Floyd's  
bringing the charge and being a credible witness.


There was sufficient evidence to support the Carrier's  
conclusion that Claimant was guilty as charged.

This claim will be denied.

Award: Claim denied.

  
S. A. Hammonds, Jr., Employee Member

  
D. A. Ring, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued September 30, 1989.