

AWARD NO. 39  
Docket No. 39

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The Carrier unfairly and improperly removed Mr. J. E. O'Bannon from his position of Bridge Crane Operator following an investigation held at Palestine, Texas, on January 15, 1959.
- (2) The Carrier should now reinstate J. E. O'Bannon to former Bridge Crane Operator's position.

FINDINGS: Claimant was disqualified as a hoisting engineer on December 11, 1958. The Employees contend that his problems were due to the age and condition of the crane to which he was assigned.

Basically, the determination of qualifications is a matter of judgment to be exercised by Management, which may not be set aside unless shown to have been exercised arbitrarily or discriminatorily.

At the hearing there was evidence that six times a hoisting engineer was assigned to train and assist the claimant for a week or more each time. There was frequent trouble with the crane and operating delays, not all due to claimant's fault. However, there was evidence of the incidence of inability to hold the boom up due to excess grease on the friction gears, the constant necessity to build up the jaws of the positive clutch due to the manner of operation, his tearing down and examination of an engine finding nothing loose although the piston was loose on the rod and shortly blew through the head, and his report of leaking flues which caused the machine to be tied up, although the boiler inspector later found no flues leaking.

Thus there was substantial evidence to support the Carrier's judgment so it cannot be found to have exercised it arbitrarily or discriminatorily.

AWARD: Claim denied.

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(s) Dudley E. Whiting  
Dudley E. Whiting - Chairman

(s) A. J. Cunningham  
A. J. Cunningham - Employee Member

(s) G. W. Johnson  
G. W. Johnson - Carrier Member

St. Louis, Missouri  
August 9, 1962  
File BMW 27-58