

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 391
Case No. 391
File No. 880228

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 J. A. Mendez was assessed a fifteen day deferred suspension.

Claim in behalf of the above employe for removal of the fifteen day deferred suspension."

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

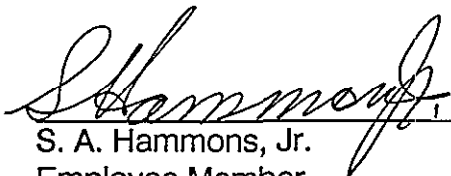
With regard to the issue of Claimant's guilt or innocence, the record contains sufficient probative evidence (including Claimant's admissions) to support Carrier's culpability determination in this case.

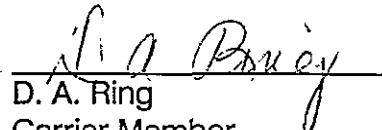
This Board is not unmindful of the fact that Carrier is entitled to prompt and factual injury reporting from its employees; however, the nature of the injury in this case combined with Claimant's unblemished prior disciplinary record, urges the Board to conclude that the discipline assessed Claimant Mendez should be reduced to a Letter of Reprimand.

The result reached herein is confined to the particular circumstances present in this case and should not be construed as a precedent for deciding future such cases.

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 November, 1989 at

Orlando, Florida.