

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 395

Docket No. 395

File 880476

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad Company
(Former Missouri Pacific)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Trackman Fredrick Ford was dismissed from the service on July 7, 1988.

(2) Claim in behalf of Trackman Ford for eight hours each work day, including holidays and reimbursed for medical bills.

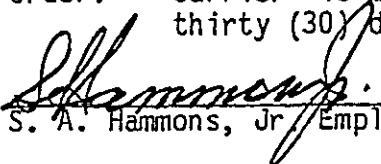
Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board for that purpose.

Claimant Trackman was advised, under date of July 7, 1988, that as a result of a formal investigation held in connection with the charge "failure to properly report the facts concerning your personal injury occurring at approximately 10:45 A.M. May 23, 1988 while you were working as a member of Maintenance of Way Gang 1675 in Alexandria, LA" he was dismissed from service. He was reinstated August 5, 1988.


In this particular case there appears to have been abuse of discretion. Two Carrier witnesses, Messrs. Joseph and Caldwell testified differently. While both testified that they saw the Claimant bend over, touch the tie, exert pressure, that he did not lift the tie off the ground. However, Witness Joseph said that the tie was not lying on the ground but rather was stacked above the ground, 6 ties above the ground. Witness Caldwell said the tie was laying on the ground. Because of the conflict between these two Carrier witnesses, this claim will be sustained.

Award: Claim sustained.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.


S. A. Hammons, Jr. Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued April 30, 1990.