

## **SPECIAL BOARD OF ADJUSTMENT NO. 279**

Award No. 400  
Case No. 400  
File No. 880527

**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 Track Foreman D. W. Evans was assessed a thirty (30) day suspension from May 27 - June 25, 1988.

Claim in behalf of Mr. Evans for eight hours each work day that would have accrued to him during the above period."

### **Findings:**

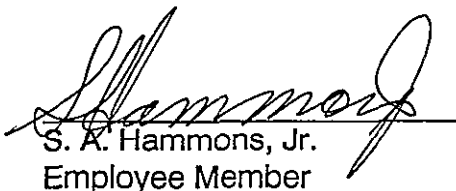
The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

The Board finds that Claimant Evans was afforded a fair and impartial hearing; however, the Board does not find compelling evidence on this record to conclude that Claimant was guilty on the charges preferred. Indeed, the record compels the opposite conclusion, urged by the Organization, that Claimant made an honest mistake in originally reporting his time for May 19, 1988 and corrected his error before, not after, he was confronted by his supervisor or before it was approved for payment. Claimant's credibility in this matter is bolstered by a flawless prior disciplinary record established over nearly eight years of service at the time of this incident.

In view of the foregoing, the thirty (30) day actual suspension assessed Claimant on June 6, 1988 is expunged from his record and he will be made whole for any wage loss suffered, including any overtime and holiday pay which would have accrued to him during the period of his suspension.

**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 10 day of November, 1989  
at Orlando, Florida.