

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 408
Case No. 408
File No. 880484

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 Trackman F. L. Kennard was dismissed from service on June 6, 1988.

Claim in behalf of Mr. Kennard for eight hours a day, including holidays, beginning June 6, 1988 and continuing, with seniority, vacation and all other rights unimpaired."

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.

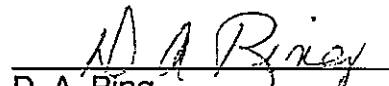
A review of the record in this matter reveals that Claimant Kennard was afforded a fair and impartial hearing and that there is substantial record evidence (including Claimant's admissions) to support the Carrier's determination that Claimant was guilty of being absent without authority and conduct unbecoming an employee.

It is also clear from a review of Claimant's prior disciplinary record, which includes four (4) dismissals and two suspensions (thirty days actual and twenty days deferred), that he has shown marked indifference to fundamental employment responsibilities during his relatively short (seven years) tenure with the Company.

Due to the gravity of the proven offenses, and finding no mitigation on the record before us, the Board concludes that Carrier's decision to permanently dismiss Claimant is not unreasonable, arbitrary or capricious and will be upheld.

Award: Claim denied.


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.