

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 412
Case No. 412
File No. 890289

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 Driver E. Guizar was dismissed from service.

Claim in behalf of Mr. Guizar for eight hours each work day, including any holidays, beginning December 28, 1988, until reinstated with seniority, vacation, and all other rights unimpaired."

Findings:

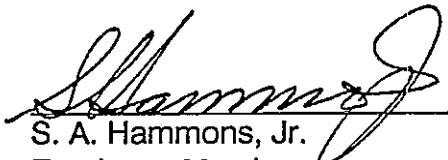
The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject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

A careful review of the record in this matter reveals that Claimant Guizar was afforded a fair and impartial hearing.

As to the substantive merits of the case, the Board finds substantial evidence on the record (including Claimant's admissions) to conclude that Claimant engaged in off-property conduct (possession and delivery of a controlled substance) which was calculated to bring discredit upon himself and his employer in violation of Carrier rules proscribing unbecoming conduct.

Due to the gravity of the proven offense, and finding insufficient mitigation on the record before us, the Board holds that Carrier's decision to permanently dismiss Claimant is not unreasonable, capricious nor arbitrary and will be upheld in this case.

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 Miami, Florida.