

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 416
Case No. 416
File No. 890356

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 C. R. Irving was dismissed from service.

Claim in behalf of Mr. Irving for eight hours each work day beginning March 27, 1989 and continuing, with seniority, vacation and all other rights unimpaired."


Findings:

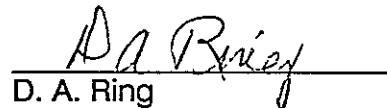
The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject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

A review of the record in this case reveals that Claimant Irving was afforded a fair and impartial hearing, even though held *in absentia*, and that substantial probative evidence was adduced at the hearing held April 26, 1989 to support the Carrier's culpability determination.

Notwithstanding Claimant's relatively long tenure with the Company (just under thirteen years service at the time of the incidents giving rise to the discipline assessed) without serious disciplinary problems, the gravity of Claimant's offense (misappropriating and selling Company property without authority) urges the Board to conclude that Carrier's imposition of permanent dismissal is not unreasonable, capricious nor arbitrary in this case. The Carrier's decision stands undisturbed.

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.