

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 439

Case No. 439
UP File 890754

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

Statement

of Claim: Claim on behalf of Trackman J. L. Anderson, Jr.,
SSN 498-62-7237, for eight (8) hours each work day,
including any overtime and holidays that would have accrued
to him had he not been dismissed October 20, 1989. Claim to
continue until he is reinstated with seniority, vacation and
all other rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties
Agreement establishing this Board therefor.

Claimant Trackman, following a formal investigation,
held at Angleton, Texas on August 3, 1989, on the charge of
absenting himself from his position as Trackman on Gang 2800
at Angleton, Texas, on June 29 and 30, 1989, was dismissed
from service as discipline therefor.


Claimant was accorded the due process to which entitled
under Rule 12 - Discipline.

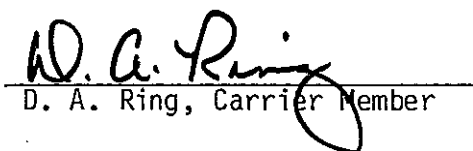
There was sufficient evidence adduced to support
Carrier's conclusion as to Claimant's culpability.


In view of the fact that Claimant having gone to the
EAP and "was seeing a counselor and therapist and was now
cleared and ready to work" is strongly indicative that the
Claimant was desirous of working for Carrier. The Board
will conditionally reinstate Claimant to service with all
rights unimpaired but without any pay for time out of
service, providing that he contact EAP and completes the
EAP's prescribed program. Failing therein will place
Claimant in a dismissal status. Consequently, the Claimant
will be conditionally reinstated subject to taking his
required physical examinations before returning to
service.

Award: Claim deposited of as provided above.

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 December 19, 1990.