

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 441

Case No. 441
UP File 890756

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

Statement

of Claim: Claim of Track Foreman J. P. Haynes, SSN 452-21-1694,
for eight (8) hours each work day, including overtime and
holidays that would have accrued to him had he not been
assessed a thirty day suspension. Claim to begin August 11,
1989 through September 2, 1989.

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

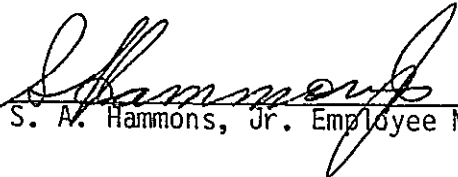
Following a formal investigation, held at Emilia Yard
Office, Beaumont, Texas, and held in absentia, the Claimant
was assessed a thirty (30) day actual suspension for his
responsibility in connection with operating motor car
#MT19301M in a reverse movement while shoving a push car
loaded with unsecured tools, while working as Section
Foreman of Gang 1636 at Hull, Texas, and for violations of
specified rules.

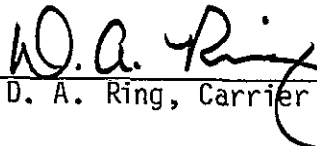
The Claimant was accorded the due process to which
entitled under Rule 12. He was properly notified but he
failed to appear or request a postponement from either the
Carrier or its Union representative. The failure to appear
at an investigation under such circumstances does not
constitute a procedural deficiency. However, the Claimant,
while relying on the fairness of an investigation, is
subject to any deficiencies that his absence might place on
the record. He is nevertheless bound by the result thereof
providing that it was a fair hearing.

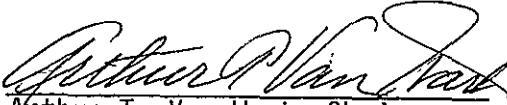
There was sufficient evidence adduced to support
Carrier's conclusion as to Claimant's culpability.

The discipline assessed in view of this record is
deemed reasonable. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr. Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued December 19, 1990.