

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 504

Case No. 504  
File 900654

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

Statement  
of Claim: Claim in favor of D. D. Tooley, SSN 365-46-5953 for the  
"payment of all lost wages and expenses incurred that would  
normally be provided by the Carrier benefits. Claim  
beginning September 10, 1990 and continuing until reinstated  
with all rights unimpaired."

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

The Claimant Track Foreman, attend an investigation  
held September 5, 1990, on the charge of:

"Alleged absence from your assignment without proper  
authority on August 16, 1990 and your alleged  
falsifying your time rule for August 16, 1990 while you  
were working as Track Foreman on Gang 4464."

This represents an unusual case which should never have  
been permitted to happen. The Board finds that there was  
insufficient evidence adduced to support the Carrier's  
conclusions as to Claimant's culpability.

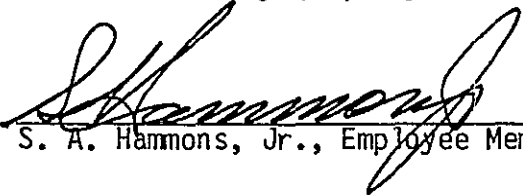
What happened on August 16, the Board is satisfied,  
happened on other occasions. It appears clear to the Board  
that on certain occasions overtime is accumulated. When it  
is feasible and permissible the employee is then allowed to  
take such accumulated time off rather than being paid  
therefor.

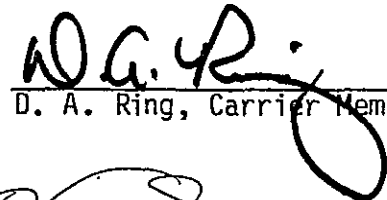
Holding this investigation is like winning a battle but  
losing the war. A methodology that appears to be most  
beneficial to the Carrier was for some unknown reason  
changed.

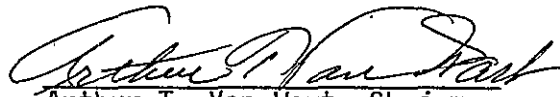
The Board will modify the discipline to a thirty day  
deferred suspension. The claim is otherwise sustained.  
Carrier will make any necessary adjustment and will be able  
to take credit for any outside earnings, if any. Claimant  
will, of course, be required to take whatever examinations,  
physical or otherwise, are necessary to permit his return to  
service.

Award: Claim disposed of as per findings.

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 August 27, 1991.