

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the System Committee that:

1. The dismissal from service of Frank Mendez, Jr., was unfair, improper, arbitrary, capricious and discriminatory, without just and sufficient cause and in violation of the effective Agreement, especially Rule 12(b).
2. Trackman Frank Mendez, Jr. be returned to the Carrier's service to the position of Trackman on Track Gang No. 303 with all seniority rights, past privileges and vacation rights unimpaired and the restoration of all the rights and privileges accruing to him under the provisions of the various Agreements if he had not been dismissed from the service by the Carrier on May 12, 1969.
3. Trackman Frank Mendez, Jr. be paid for all time lost from May 12, 1969, up until the time he is returned to the Carrier's service and further that the Carrier shall pay to the Claimant 6% interest per annum on the monetary allowance accruing from the initial Claim date until this Claim is paid.

FINDINGS: There is no dispute that the claimant refused to comply with instructions to wear his safety hat while on duty. He claims that such instructions were unreasonable and discriminatory.

The agreement establishes a grievance procedure for the determination of such claims and to provide relief if found to be discriminatory or unreasonable.

The claimant did not follow that procedure and did not file any such claim. Rather he took matters into his own hands and deliberately refused to comply with the directions of a supervisor. Thereby he was insubordinate and his dismissal was for proper cause.

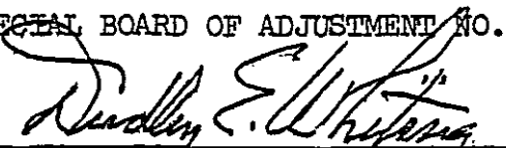
This board has no jurisdiction to grant leniency, but notes that, in such cases, generally a long service employee would be considered therefor upon recognition of his responsibility to comply with supervisory directions.

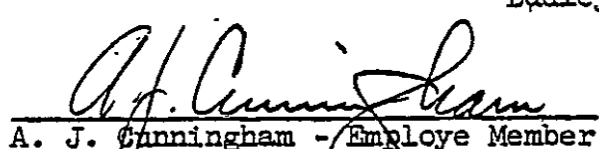
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AWARD: Claim denied.

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Dudley E. Whiting - Chairman

  
A. J. Cunningham - Employee Member

  
G. W. Johnson - Carrier Member

St. Louis, Mo.  
February 9, 1971  
File 247-4727