

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement by dismissing Trackman G. A. Schrader on January 9, 1978, on unproven charges.
2. Claimant Schrader shall now be paid for eight (8) hours, at the straight time rate of pay for trackmen, each work day and holiday, beginning December 20, 1977, and to continue until such time as he is returned to work with his seniority rights and vacation privileges restored, unimpaired.

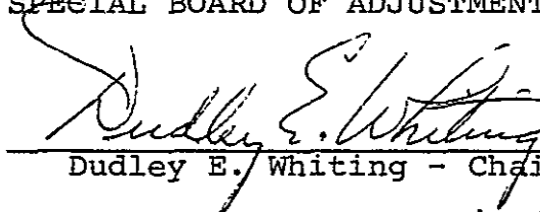
FINDINGS: The evidence adduced at the investigation is that claimant was obeying the directions of the Roadmaster under whose supervision he was employed in the removal, transportation and sale of property from Grace Street Yard, so it does not support the charge against the claimant.

It is elementary that evidence to support the charge made must be presented at the investigation to sustain the decision to dismiss the employe thereon, and proof of other misconduct such as lying to cover up the conversion of property by the Roadmaster cannot sustain such termination.


Accordingly, we are constrained to sustain the claim with a notation that pursuant to our Award No. 119, the claim for pay is subject to the deduction of earnings in other employment and unemployment compensation received by the claimant meanwhile.

AWARD: Claim sustained per findings.

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Dudley E. Whiting - Chairman


M. A. Christie - Employe Member


L. D. Brown - Carrier Member

St. Louis, Missouri
May 24, 1979
File 247-5593