

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement by unfairly dismissing Trackman J. L. Harbor from Carrier's service on August 9, 1976.
2. Claimant Harbor shall now be returned to the position of Trackman on the Louisiana Division, with all seniority rights, pass privileges, vacation rights unimpaired, as well as his restoration of all other rights and privileges accruing to him, which would have been his under the provisions of various agreements, if he had not been dismissed from the service of the Carrier on August 9, 1976, and that he be paid for all time lost that he has suffered on account of dismissal, claim to run concurrently until Mr. Harbor is returned to service.

FINDINGS: Evidence was adduced at the investigation to support the charge in the testimony of the foreman and a fellow employe, and it is undisputed that the claimant left the place where he was working and performed no more work that day.

Moreover, the claimant's testimony on a material fact was inconsistent in that he said the foreman jerked the bar from his hand and continued cussing "so I just gave him the bar and walked away." This latter statement that he gave the bar to the foreman is consistent with the foreman's testimony.

Hence we are constrained to credit the foreman's testimony and deny the claim.