

SPECIAL BOARD OF ADJUSTMENT NO. 269

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

1. Carrier violated the agreement on May 2, 1981, when Welder Helper B. S. Hartsell, Palestine Division, was dismissed for allegedly laying off under false pretenses to engage in outside employment.
2. Claimant shall now be paid for all time lost during the period May 2 to October 30, 1981.

FINDINGS:

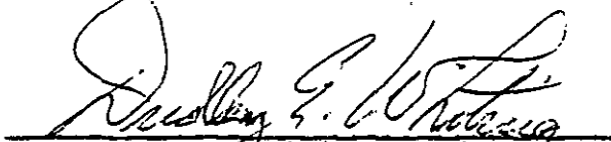
Any presumption that claimant laid off under false pretenses in order to accept outside employment by being seen at work elsewhere, was refuted by evidence that his car was in the garage for repair and that no other means of transportation to the location of his assignment was available to him on April 9, 1981, which supports the reason he gave for laying off on that day.

It is clear that he addressed obscene and abusive language to the roadmaster. In view of his length of service and absent any record of prior discipline, a reprimand would have been suitable discipline. Accordingly, the dismissal shall be reduced to a reprimand and claimant shall be compensated for any wage loss from May 2 to October 30, 1981, as he was reinstated effective October 31, 1981.


AWARD:

Claim sustained to the extent stated in the findings.

SPECIAL BOARD OF ADJUSTMENT NO. 279


Dudley E. Whiting, Chairman


M. A. Christie, Employee Member


L. D. Brown, Carrier Member