

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 328  
Case No. 328  
File No. 870191

Parties                      Brotherhood of Maintenance of Way Employees

to    and

**Dispute:** Union Pacific Railroad Company  
(Former Missouri Pacific Railroad Company)

Statement  
of  
Claim:

"Carrier violated the Agreement, especially Rule 12, when Trackman M. G. Hardy was dismissed from the service on February 5, 1987.

"Claimant Hardy should now, therefore, be allowed compensation for time lost from December 26, 1986 until reinstated with all past privileges, vacation and seniority rights unimpaired."

### Findings:

The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

A careful review of the record discloses that Claimant was afforded a fair and impartial hearing.

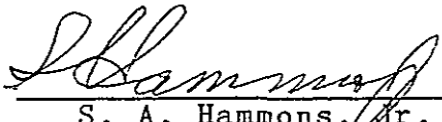
As to the substantive merits of the claim, the Board finds that there was substantial evidence presented for the Carrier to find the Claimant had violated Rule G.

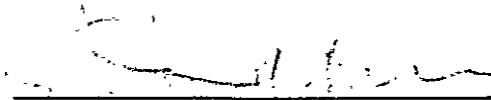
In view of the Claimant's relatively long service - 15 years at the time of the offense - and his prior successful enrollment in the Employee Assistance Program, the Board is persuaded that Mr. Hardy should be given a "last chance" opportunity to commit to sobriety and become a productive part of Carrier's work force. Therefore, Mr. Hardy will be reinstated to service, but without pay for time and benefits lost; provided that he reports within thirty (30) days of the effective date of this Award to the Carrier's assigned Employee Assistance Program Counselor for evaluation and commitment to a meaningful rehabilitation program, that he successfully passes the usual return-to-service physical and rules examinations and that he obtain an unqualified favorable recommendation from EAP that he is capable of maintaining his employment in an alcohol-free work place.

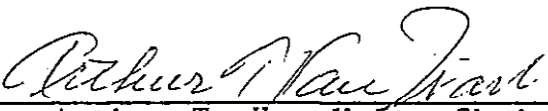
Should Claimant fail to meet any or all of these conditions, it is this Board's decision that he has forfeited his employment and seniority with the Carrier.

**Award:** Claim sustained, in part, 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

  
\_\_\_\_\_  
J. J. Shannon  
Carrier Member

  
\_\_\_\_\_  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued: July 28, 1988