

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 352
Case No. 352
File No. 870661

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 E. L. McCoy was dismissed from the service.

Claim in behalf of Trackman McCoy for eight hours each work day, including any holidays falling therein, and any overtime that would have accrued to him had he not been dismissed. Claim beginning May 22, 1987 and continuing until he is reinstated to service with seniority and vacation 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

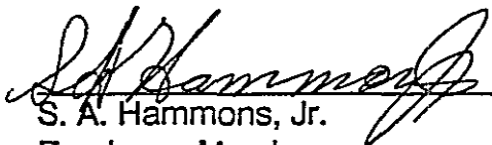
Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

A review of the record in this case reveals that Claimant McCoy was afforded a fair and impartial hearing.

There is substantial evidence on this record to support the Carrier's finding of guilt on the charges preferred.

Notwithstanding Claimant's relatively long, previously unblemished record with the Company (nearly 14 years service at the time of the incidents giving rise to the discipline), the seriousness of Claimant's offense (theft by deception) urges the Board to conclude that the Carrier's imposition of permanent dismissal is not unreasonable, arbitrary or capricious. The Carrier's decision will be upheld.

Award: Claim denied.


S. A. Hammons, Jr.
Employee Member


D. A. Ring
Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued on the 10th day of March, 1989
at Tampa, Florida.