

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 359

Case No. 359
File 8707396

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad
(Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,
when Trackman Richmond Henry was assessed a fifteen day
actual suspension.

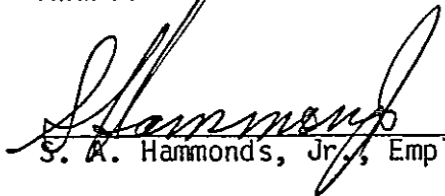
(2) Claim in behalf of Trackman Henry to remove the 15 day
actual suspension from claimant's personal record and
reimburse him for all wage loss suffered, vacation,
seniority, and all other rights restored unimpaired.

Findings: The Board has jurisdiction by reason of the parties
Agreement establishing this Board.

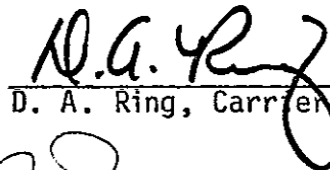
Claimant on June 4, 1987, was working as a Trackman.
At approximately 11:25 AM he was observed by Foreman J. J.
McCraw walking on a track where he was not authorized to be.
Foreman McCraw instructed Henry to leave the restricted area
to which Mr. Henry did not respond and made an obscene
gesture towards his supervisor by flipping his middle
finger. A formal investigation was held in connection
therewith and Claimant was assessed a fifteen day actual
suspension.

This disciplinary action turned on the credibility of
the two main characters. No purpose was shown for Foreman
McCraw making the statement that he did, recognizing for the
moment that Claimant denied that he flipped his middle
finger. Absent no showing of animosity McCraw was the more
credible. This claim will be denied.

Award: Claim denied.



S. A. Hammonds, Jr., Employee Member



D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member