

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 360
Case No. 360
File No. 870746

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 Assistant Foreman L. B. Begaye was dismissed from the service.

Claim in behalf of Assistant Foreman Begaye 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 July 19, 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.

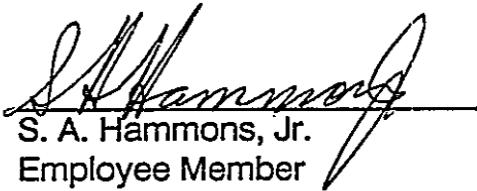
Claimant Begaye was dismissed from service following hearing *in absentia* on charges that he was in violation of Rule G while involved in an altercation with fellow employees which resulted in personal injuries.

A review of the record in this case reveals that Claimant was afforded a fair and impartial hearing and was ably represented at such hearing by his Union representative. The record also discloses that Claimant was permitted additional time, before the hearing commenced, to appear and defend against the charges.

There was substantial evidence presented at the hearing to warrant Carrier's determination that Claimant Begaye was guilty as charged and to support its subsequent decision to dismiss him.

Due to the gravity of the offenses, and finding no mitigation on the record before it, the Board finds that Carrier's decision was not unreasonable, arbitrary or capricious and 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 Panama, Florida.