

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 366

Case No. 366
File 870799G

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 Foreman J. A. Chavez and Machine Operator J. M. Wilson were assessed 30 day actual suspensions.

(2) Claim in behalf Foreman J. A. Chavez and Machine Operator J. M. Wilson for eight hours each work day, including any holidays falling therein, and any overtime that would have accrued to them had they not been assessed 30 days actual suspension. Claim beginning July 29, 1987 and continuing through August 27, 1987.

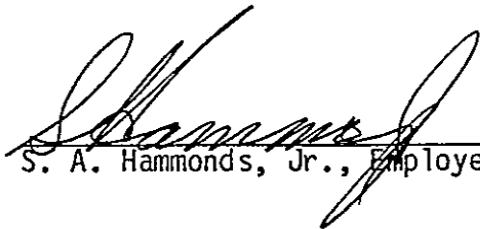
Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board.

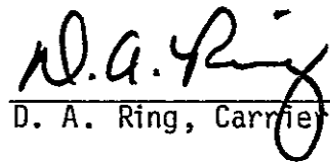
Track Foreman J. A. Chavez and Machine Operator J. M. Wilson were working on Surfacing Gang 2823 on May 8, 1987 between MP 225 and 226. Claimants, apparently, left an unsafe track condition which resulted in the derailment of Extra 6057 South CCDA on May 9, 1987. The Chief Engineer's instructions require that cribs will be full of ballast and the shoulders protected before leaving welded rail unprotected; and, if that is not accomplished a slow order must be issued in order to protect the area. A formal investigation was held in connection therewith. Claimants were assessed the discipline here appealed.

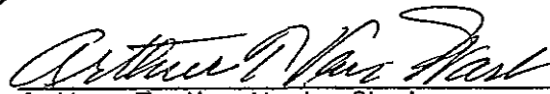
There was sufficient evidence adduced to support Carrier's conclusion as to the Claimant's culpability. Relief Roadmaster Al Cicneros testified that he investigated the derailment site and he found the track was shy of ballast in the center and that no slow orders were in effect at the derailment site.

The discipline assessed, in view of the circumstances, is not unreasonable. 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

Issued September 30, 1989.