

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 379
Case No. 379
File No. 870346

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 System Rail Gang employees, Mechanic J. O. Allen and Assistant Foreman R. Yazzie, were assessed 90 day actual suspensions.

Claim in behalf of the above employees 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 90 day suspensions."

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 Claimants Allen and Yazzie were afforded a fair and impartial hearing.

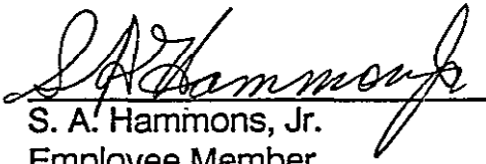
There is substantial evidence on the record to support the Carrier's determination that Claimants were guilty on the charges preferred.

However, as to the quantum of discipline assessed each Claimant, the Board reaches a somewhat different result based upon its own careful analysis of the facts and circumstances presented and the relative culpability of each Claimant.

As a result of its analysis, the Board finds that the discipline assessed Claimant Allen should stand undisturbed. The Board further finds that the ninety (90) day actual suspension levied upon Claimant Yazzie should be reduced to a forty-five day actual suspension and that he should be paid his wage loss suffered, if any, during the period withheld from service beyond the forty-five day actual suspension herein ordered.

Award: Claim of J. O. Allen is denied; claim of
R. Yazzie is sustained, in part, as per findings.

Order: Carrier is directed to make this Award effective
within thirty (30) days of date of issuance.


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