

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 389

Case No. 389

File 860078G

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 C. L. McKinnon was dismissed from the service.

(2) Claim in behalf of Trackman McKinnon for eight hours
each work day, including any holidays falling therein, that
would have accrued to him had he not been dismissed. Claim
beginning September 1, 1986, and continuing until he is
reinstated to service with seniority and vacation rights
unimpaired.

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

Claimant, while working as a Trackman on August 29,
1986 was observed removing Company property (a jack) without
proper authority. Following a formal investigation he was
dismissed from service as discipline therefor. He was
reinstated on January 13, 1987 with the right to progress
his claim for wages loss to a Board.

Track Foreman L. A. Floyd said he observed from eight
feet away:

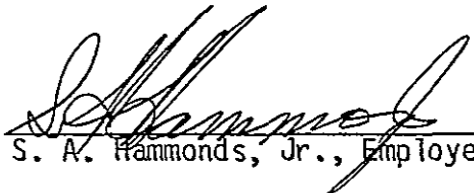
"I seen Mr. McKinnon coming out of the back of the Company
truck with an orange raincoat with a jack placed under it
and placed it in the back seat of Mr. Brown's car on the
driver's side."

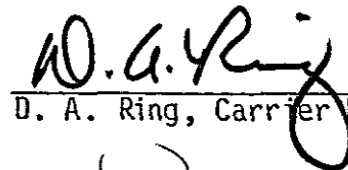
There was some discussion as to the total number of
jacks in all the trucks. None the less there was an eyeball
witness to the proceeding who brought the charge. Track
Foreman Floyd reported the incident, the Claimant was
charged and tried thereon. No credible reason was shown against Floyd's
bringing the charge and being a credible witness.

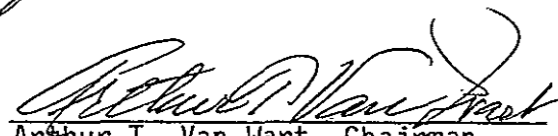
There was sufficient evidence to support the Carrier's
conclusion that Claimant was guilty as charged.

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.