

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 399
Case No. 399
File No. 880524

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 Trackman V. J. Calhoun was dismissed from the service May 17, 1988.

Claim in behalf of Mr. Calhoun 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 May 17, 1988 and continuing until he is reinstated to service with seniority, vacation and all 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 con-

stituted 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.

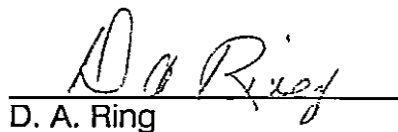
A careful review of the record in this matter reveals that Claimant was afforded a fair and impartial hearing and we so find.

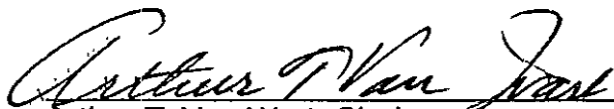
As to the issue of Claimant's culpability, we find that there is substantial record evidence to support Carrier's determination that Claimant absented himself without proper authority, failed to comply with instructions and engaged in off-property conduct which was calculated to bring discredit upon his employer and himself. By pleading guilty to Louisiana criminal charges involving possession of marijuana with intent to distribute and possession of cocaine, Claimant confirmed his violation of Carrier rules proscribing such misconduct.

Due to the gravity of the proven offenses, and finding no compelling mitigation on the record before us, the Board finds that Carrier's decision to permanently dismiss Claimant is not unreasonable, arbitrary nor capricious and we so hold.

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 10 day of November, 1989 at
Orlando, Florida.