

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 401
Case No. 401
File No. 880591

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 J. V. Bianchi was dismissed from the service.

Claim in behalf of Trackman Bianchi for eight hours each work day, including any holidays falling therein, that would have accrued to him had he not been dismissed. Claim beginning July 22, 1988, 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.

A review of the record in this case reveals that Claimant Bianchi was afforded a fair and impartial hearing.

There is substantial evidence on this record (including Claimant's own admissions) to support the Carrier's finding of guilt on the charges preferred.

Claimant's lengthy unauthorized absence is a serious offense warranting severe discipline. As noted in Second Division Award 6240:

"The Board has repeatedly pointed out the detrimental effects of absenteeism on the operations of the railroad. (Award 1814 - Carter, Award 5049 - Johnson) The confusion and disruption created when an employee absents himself from work without due notice to supervision is harmful not only to the employer but also to employees as well."

Nonetheless, Claimant's seven years of discipline-free service and other extenuating circumstances in this case mitigate in favor of offering this first-offender an opportunity to once again become a productive member of Carrier's workforce.

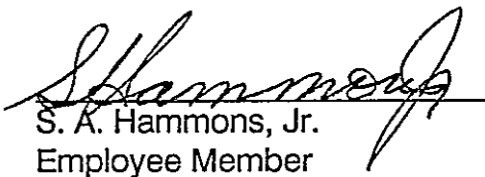
Therefore, *provided* Claimant Bianchi meets with a Company EAP Counselor - within thirty (30) days of the date that Carrier notifies him to report - for counseling in connection with meeting his fundamental obligations to his employer and himself; and *provided further*, he thereafter secures the EAP Director's return-to-service recommendation and passes the usual return-to-service examination(s), Claimant will be restored to service with all seniority, vacation and other rights unimpaired with a continuing obligation to successfully complete his prescribed counseling program.

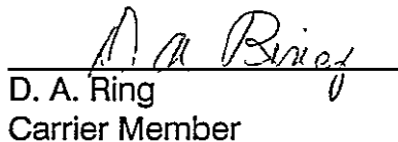
The Board will retain jurisdiction of this matter and should Claimant Bianchi fail to avail himself of this opportunity, by meeting the conditions precedent to re-entry to Carrier's workforce set forth above, after being afforded a reasonable time to do so, then Claimant will revert to the status of a dismissed employee - without further proceedings under Rule 12 - and the Board will enter a denial award upholding his permanent dismissal from Carrier's service.

Under the circumstances obtaining, Petitioner's claim for all wage loss suffered is denied.

Award: Claim 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 10 day of November, 1989
at Orlando, Florida.