

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 410
Case No. 410
File No. 890206

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 Tie Gang Machine Operator G. C. Galyean was assessed a sixty (60) day suspension following investigation held November 25, 1988.

Claim in behalf of Mr. Galyean for eight hours each work day, including any holidays falling therein, that would have accrued to him."

Findings:

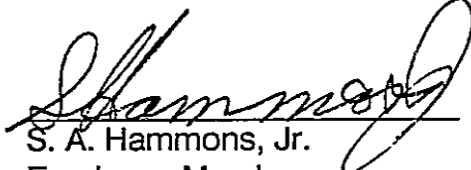
The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

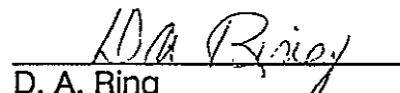
A careful review of the record discloses that Claimant Galyean was afforded a fair and impartial hearing. A review of Claimant's disciplinary record reveals that Carrier officers' concerns regarding unauthorized absences, in view of Claimant's prior derelictions in this area, are not without foundation; however, the record before us does not contain sufficient probative evidence to support the culpability determination made by the Carrier for the date charged.

In view of the foregoing, the Board has no alternative but to set aside the sixty (60) day disciplinary suspension assessed Claimant on December 5, 1988. However, the Board is constrained to admonish Claimant that he is "skating on thin ice" in this area and that any future disregard of fundamental employment responsibilities, if proven, would not meet with favorable consideration. The Board's findings are limited to the facts obtaining in the instant case.

Award: Claim sustained.

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.