

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 411
Case No. 411
File No. 890276

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 Foreman B. I. Carter, Sr. was assessed a thirty (30) day actual suspension beginning January 4, 1989.

Claim in behalf of Foreman Carter for all time lost, including any holidays falling therein, had he not been assessed a 30 day suspension beginning January 4, 1989."

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.

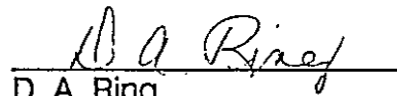
The Board finds that Claimant Carter was afforded a fair and impartial hearing; however, the Board does not find compelling evidence on this record to conclude that Claimant was issued a clear and unequivocal directive by his supervisor which he thereafter willfully disobeyed. The Board is persuaded by the Organization's arguments, on Claimant's behalf, that Foreman Carter reasonably could, and did, believe that his requested one-half day leave was approved, though unauthorized for pay or holiday purposes. Claimant's credibility in this matter is bolstered by a flawless prior disciplinary record established over seven years of service.

In view of the foregoing, the thirty (30) day actual suspension assessed Claimant on January 4, 1989 is expunged and Claimant will be allowed his wage loss suffered, if any, during the period of his suspension.

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.