

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 436

Case No. 436
UP File 890712

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad
 (Former Missouri Pacific Railroad Company)

Statement

of Claim: Claim on behalf Track Foreman P. Son, S.S.#436-60-2167, for eight (8) hours each work day, including overtime and holidays that would have accrued to him had he not been dismissed, claim beginning September 7, 1989 and continuing until he is reinstated with seniority, vacation and all other rights unimpaired.

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

The Claimant following a formal investigation, was dismissed from service September 18, 1989, for misuse of Company rapiddrafts on July 10 and 12, 1989 by (1) paying for gasoline that was put in other than a Company vehicle, (2) receiving cash in exchange for Company rapiddrafts, (3) signing another employee's name to rapiddrafts without their authority, and (4) using the Company's rapiddrafts that were assigned to another vehicle and reported missing on July 17, 1989.

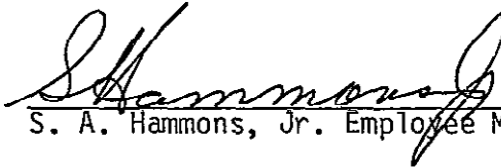
Claimant was accorded the due process to which entitled under Rule 12.

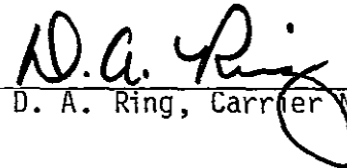
There was sufficient evidence adduced to support Carrier's conclusion of Claimant's culpability. Special Agent Barefield's testimony, including the documentation submitted, sufficiently supports Carrier's conclusion that Claimant had acted as charged. Further, the transcript also reflected that the Claimant was arrested for forgery on September 7, 1989; that subsequently he plea bargained to two (2) counts of theft under \$100 and was sentenced to pay \$250 fine plus court costs or serve twenty (20) days jail.

The discipline imposed, particularly in view of his service record reflecting that the Claimant had been dismissed on three other occasions for falsification of time documents, for participation in theft of a consignee's merchandise in the Carrier's possession in connection with a

derailment and taking possession of stolen property, the discipline was reasonable. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr. Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued December 19, 1990.