

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 439

Case No. 439  
UP File 890754

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

Statement  
of Claim: Claim on behalf of Trackman J. L. Anderson, Jr.,  
SSN 498-62-7237, for eight (8) hours each work day,  
including any overtime and holidays that would have accrued  
to him had he not been dismissed October 20, 1989. Claim to  
continue 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.

Claimant Trackman, following a formal investigation,  
held at Angleton, Texas on August 3, 1989, on the charge of  
absenting himself from his position as Trackman on Gang 2800  
at Angleton, Texas, on June 29 and 30, 1989, was dismissed  
from service as discipline therefor.

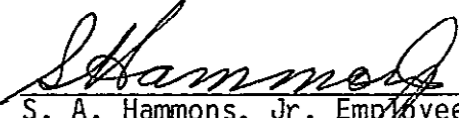
Claimant was accorded the due process to which entitled  
under Rule 12 - Discipline.

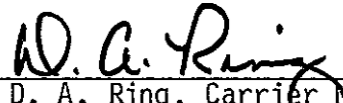
There was sufficient evidence adduced to support  
Carrier's conclusion as to Claimant's culpability.

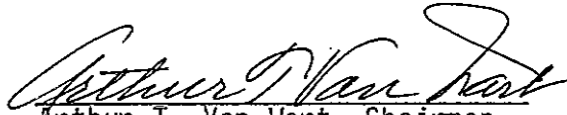
In view of the fact that Claimant having gone to the  
EAP and "was seeing a counselor and therapist and was now  
cleared and ready to work" is strongly indicative that the  
Claimant was desirous of working for Carrier. The Board  
will conditionally reinstate Claimant to service with all  
rights unimpaired but without any pay for time out of  
service, providing that he contact EAP and completes the  
EAP's prescribed program. Failing therein will place  
Claimant in a dismissal status. Consequently, the Claimant  
will be conditionally reinstated subject to taking his  
required physical examinations before returning to  
service.

Award: Claim deposited of as provided above.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.

  
S. A. Hammons, Jr. Employee Member

  
D. A. Ring, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued December 19, 1990.