

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 463

Case No. 463
UP File 900108

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 Grinder Operator, Bordell McCann,
SSN 587-94-7865, for eight (8) hours each work day,
including overtime and holidays, that would have accrued to
him had he not been dismissed on November 13, 1989, claim to
continue until he has been 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 on November 13, 1988 as discipline in
connection with criminal charges of possession of a
controlled substance of less than 28 grams including
adulterants and dilutants.

The record reflects that Claimant drove a Company
vehicle to a location off company property where he was
arrested by Ft. Worth Narcotic Officers and charged with
possession of a controlled substance, namely, cocaine, of
less than 28 grams, including any adulterants and dilutants.
The Claimant was indicted and the indictment was sent to 213
District Court where the Claimant admitted during the
hearing that he was, in fact, in possession of a controlled
substance at the time of his arrest.

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

There was sufficient evidence adduced, including the
admissions of Claimant, to support the Carrier's conclusion
of culpability.

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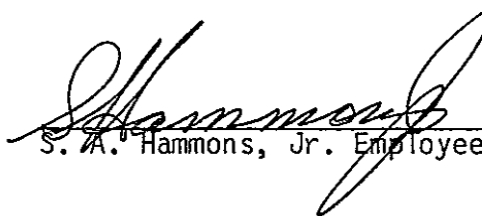
Claimant as pointed out Award No. 1 of PLB 2367:

"...the Claimant was guilty not only of a legal violation
but he also disregarded the principles of human morality.
His value as an employe depreciated to a point where his
presence could adversely effect his fellow employees and
impinge on the good name of the Carrier. Even if there was

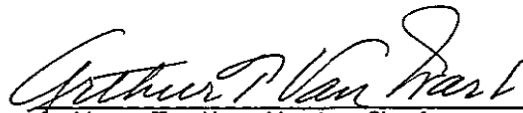
no Rule 700, or any like rule, his conviction would have been great concern to the Carrier. An evaluation of his integrity, his presence, his effect upon his work environment, would have been proper considerations in determination of probable disciplinary action."

The discipline, particularly in view of the fact that Claimant only completed the first phase of the EAP program then dropped out and refused to go through with the required follow up treatment, helps assure that favorable consideration should not be given by this Board. 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.