

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 485

Case No. 485
File 900317

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

Statement

of Claim: Claim of Track Foreman R. L. Osbourn, SSN 457-94-8294, for eight (8) hours each work day, including overtime and holidays that would have accrued to him had he not been dismissed as a result of investigation held February 15, 1990. Claim to continue until he is reinstated to service with seniority, vacation and all other rights unimpaired.

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

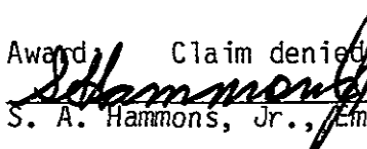
As a result of the Claimant being arrested and charged with murder in the first degree on February 13, 1988 by Wood County Sheriff's Department, a formal investigation that had been postponed some six times was finally held on February 15, 1990 on the charge of conduct unbecoming an employee therefor. As a result of the investigation, Carrier concluded therefrom that Claimant was culpable and he was dismissed from service as discipline therefor.

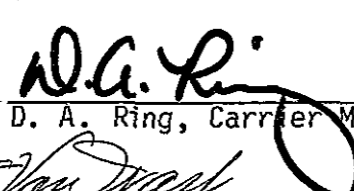
The record shows that Special Agent J. O. Douglas substantiated the charge that criminal charges had been filed against Claimant for Murder in the First Degree, that Claimant was incarcerated initially in the Wood County Jail, that he pled nolo contendere and that he waived a jury trial. The Claimant was found guilty of manslaughter and was sentenced to ten (10) years of incarceration. He was transferred to prison to carry out his sentence.

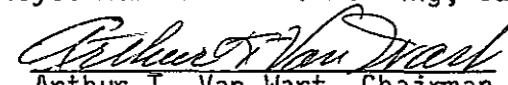
The evidence spoke a thousand words. Claimant was guilty as charged. The discipline is not unreasonable.

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 September 26, 1991.