

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 492

Case No. 492

File 900452

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

Statement

of Claim: Claim of Machine Operator R. C. Esquivel, SSN 451-98-8264, 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 6, 1990. Claim to continue until he is reinstated 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.

The Claimant was notified to attend a formal investigation under date of February 6, 1990 on the charge:

"...your alleged violation of Rule G on or about January 13, 1990 Saturday at approximately 8:30 AM while employed as Roadway Machine Operator..."

The investigation was postponed and rescheduled and held February 6, 1990. As a result thereof, Carrier concluded him to be culpable of the charge. He was dismissed from service as discipline therefor. Rule 12 was complied with.

The record reflects that the Claimant admitted that he had been arrested and booked by the Comal County authorities for possession of cocaine. The Comal County District Court documents show that Claimant was found guilty of the felony offense of "possession of a controlled substance," and that he was sentenced to a term of two (2) years in the institutional division, Texas Department of Criminal Justice and fined \$1,000. The Claimant pled guilty in open court and he waived his right to a trial by jury.

In the circumstances, the discipline is not deemed unreasonable. This claim will be denied.

Award: Claim denied.

*Sol Hammons Jr.*  
S. A. Hammons, Jr., Employee Member

*D. A. Ring*  
D. A. Ring, Carrier Member  
*Arthur T. Van Wart*  
Arthur T. Van Wart, Chairman  
and Neutral Member