

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 504

Case No. 504
File 900654

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

Statement

of Claim: Claim in favor of D. D. Tooley, SSN 365-46-5953 for the
"payment of all lost wages and expenses incurred that would normally be provided by the Carrier benefits. Claim beginning September 10, 1990 and continuing until reinstated with all rights unimpaired."

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

The Claimant Track Foreman, attend an investigation held September 5, 1990, on the charge of:

"Alleged absence from your assignment without proper authority on August 16, 1990 and your alleged falsifying your time rule for August 16, 1990 while you were working as Track Foreman on Gang 4464."

This represents an unusual case which should never have been permitted to happen. The Board finds that there was insufficient evidence adduced to support the Carrier's conclusions as to Claimant's culpability.

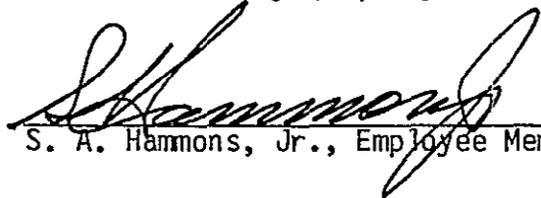
What happened on August 16, the Board is satisfied, happened on other occasions. It appears clear to the Board that on certain occasions overtime is accumulated. When it is feasible and permissible the employee is then allowed to take such accumulated time off rather than being paid therefor.

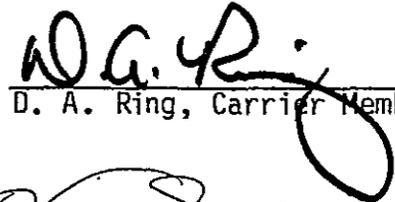
Holding this investigation is like winning a battle but losing the war. A methodology that appears to be most beneficial to the Carrier was for some unknown reason changed.

The Board will modify the discipline to a thirty day deferred suspension. The claim is otherwise sustained. Carrier will make any necessary adjustment and will be able to take credit for any outside earnings, if any. Claimant will, of course, be required to take whatever examinations, physical or otherwise, are necessary to permit his return to service.

Award: Claim disposed of as per findings.

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 August 27, 1991.