

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 504

Case No. 504
File 900654

Parties Brotherhood of Maintenance of Way Employees
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.

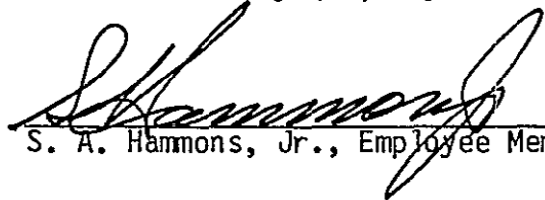
What happened on August 16, the Board is satisfied,
happened on other occasions. It appears clear to the Board
that on certain occasions overtime is accumulated. When it
is feasible and permissible the employee is then allowed to
take such accumulated time off rather than being paid
therefor.

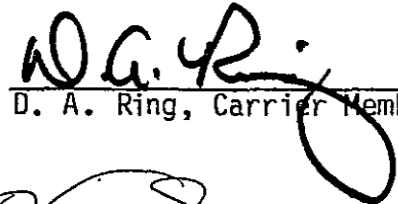
Holding this investigation is like winning a battle but
losing the war. A methodology that appears to be most
beneficial to the Carrier was for some unknown reason
changed.


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.