

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 562

Docket No. 562

File 910571

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,  
when L. B. Hamilton was dismissed from service on May 29,  
1991.

(2) Claim in behalf of Mr. Hamilton for wage loss suffered  
beginning May 29, 1991, until reinstated with seniority,  
vacation and all other rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties  
Agreement establishing this Board for that purpose.

The Claimant, Track Foreman L. B. Hamilton, had 23  
years of service and on May 29, 1991 was notified to attend  
a formal investigation on the charge:

"May 7, 1991 it was alleged you appropriated Company  
property for your personal use by your unauthorized removal  
of hot mix asphalt from the job site at Homestead Drive and  
LA. Hwy 1 crossing at Mile Post 86.50, Alexandria  
Subdivision, and brought to your personal residence at 6772  
S. River Road, Brusly, LA., while you were working as Track  
Foreman on Gang 1740."

The Carrier concluded therefrom that Claimant was  
culpable and he was dismissed from service as discipline  
therefor.

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

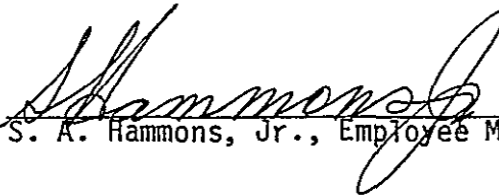
There was sufficient evidence adduced, including the  
admissions of Claimant, to support the Carrier's conclusion  
as to his culpability.

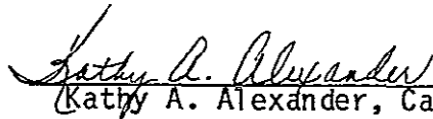
However, there are mitigating circumstances that permit  
the Board to modify the discipline imposed. Claimant will  
be returned to service without any pay for the time out of  
service with all rights unimpaired and thereafter placed in  
a one year probationary status. His time out of service


will serve to teach him to request permission or advice of supervisor in any future similar situation.

Award: Claim disposed of as per findings.

Order: Carrier is requested to make this Award effective within thirty (30) days of date of issuance shown below.

  
S. A. Hammons, Jr., Employee Member

  
Kathy A. Alexander, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued November 28, 1992.