

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISIONAward No. 13041  
Docket No. 12995  
96-2-95-2-16

The Second Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

(International Brotherhood of Electrical  
( Workers  
PARTIES TO DISPUTE: (  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

- "1. That System Electrician Charles F. Grant was unjustly withheld and subsequently dismissed from the service of the Burlington Northern Railroad Company, effective December 30, 1993, in violation of Rule 30 of the controlling agreement.
2. That the investigations held on December 15 and 16, 1993 were not fair and impartial as required by the rules of the controlling Agreement and that the discipline assessed was unjust and unwarranted.
3. That accordingly, the Burlington Northern Railroad Company be ordered to make System Electrician C. F. Grant whole for all lost wages, rights, benefits and privileges which were denied him, and that he be restored to service with the Burlington Northern Railroad Company immediately and that the entries of discipline and investigation be removed from his personal record."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant received two letters citing him for various alleged Rules violations, held two separate Investigations and received one notice, dismissing him from service for his culpability in connection with both charges.

One Investigation was for fraud in that Claimant continued receiving wages under the wage continuation policy for almost two months after he had been cleared by the Medical Department to return to work. The other Investigation was for falsifying an injury after he did return to Carrier's service. In both Investigations, the Carrier's evidence meets the substantial evidence concept.

The Organization has raised a procedural argument or two, but neither is sufficiently established that would in any way cause this Board to set aside the discipline rendered.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Dated at Chicago, Illinois, this 21st day of August 1996.