

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13160
Docket No. 13055
97-2-95-2-81

The Second Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(International Brotherhood of Electrical Workers
(System Council No. 16

PARTIES TO DISPUTE: (

(Burlington Northern Railroad

STATEMENT OF CLAIM:

- “1. That in violation of the governing Agreement, Rule 35 in particular, Mechanical Department Electrician Armand Buchanan was unjustly dismissed from the service of the Burlington Northern Railroad Company as a result of an investigation that was conducted in his absence;
2. That the investigation that was conducted in his absence was not fair and impartial as required by the governing Agreement, and;
3. That the Burlington Northern Railroad Company should be directed to make Armand Buchanan whole for all wages, rights, benefits and privileges which have been denied him and in addition, the entry of investigation and discipline assessed against him to 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 were given due notice of hearing thereon.

Prior to his dismissal from service, Claimant had been employed by Carrier as a Mechanical Department Electrician, for approximately seven months. On March 10, 1994 Claimant was notified to appear for an Investigation

“...in the office of Assistant General Foreman located at the Memphis Diesel Shop at 0800 hours, Tuesday, March 22, 1994, for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your failure to protect your job assignment from February 18, 1994, and continuing...”

The Investigation was postponed by agreement of the parties and ultimately held on April 19, 1994. Claimant did not appear for the Investigation. On April 26, 1994, Carrier notified him that he was dismissed from Carrier's service.

The Organization has protested that the Hearing held in Claimant's absent was not fair and impartial. By proceeding in absentia, the Carrier deprived Claimant of the opportunity to testify and defend himself. It is apparent from the record before the Board that the Carrier made every reasonable attempt to contact Claimant, including notice sent to each of his last three known addresses. In light of Claimant's short service record, and obvious lack of interest in preserving his job, the Board sees no reason to disturb Carrier's assessment of discipline.

AWARD

Claim denied.

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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 8th day of September 1997.