

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13744

Docket No. 13641

03-2-01-2-46

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

**(International Brotherhood of Electrical Workers
PARTIES TO DISPUTE: (
(Burlington Northern Santa Fe Railway**

STATEMENT OF CLAIM:

- "1. That in violation of the current April 1, 1983 Agreement, Rule 35 in particular, Electrician Mark Billingslea was unjustly suspended from the service of the Burlington Northern/Santa Fe Railroad Company for a period of twenty (20) days following an investigation held on December 16, 1999.**
- 2. That the investigation held on December 16, 1999 was not a fair and impartial investigation under the terms required by the rules of the controlling Agreement, and that the twenty (20) day suspension of Electrician Mark Billingslea was excessive and unwarranted.**
- 3. That accordingly the Burlington Northern/Santa Fe Railroad Company be directed to make Electrician Mark Billingslea whole with respect to all lost wages, rights, benefits and privileges which were adversely effected by his unjust suspension from service. Further, that all record of this matter be removed from Electrician Mark Billingslea's 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.

On January 3, 2000 the Carrier suspended the Claimant for 20 days plus activated a five day deferred suspension. At an Investigation held on December 16, 1999 the Carrier found that the Claimant violated Rule S-28.14 on November 26, 1999 by being absent without authority.

The Rule reads as follows:

“S-28.14 Duty - Reporting or Absence

Employees must report for duty at the designated time and place with the necessary equipment to perform their duties. They must spend their time on duty working only for the railroad.

Employees must not leave their assignment exchange duties, or allow others to fill their assignments without proper authority.

Employees must not be absent from duty without proper authority. Except for a scheduled vacation period, authorized absence in excess of ten calendar days must be authorized by formal leave of absence, unless current agreement differs.”

The date in question was the day after Thanksgiving and accordingly, the Carrier was working off the Holiday Overtime List. The Claimant with a little more than a year's experience was working off the Holiday List for the first time.

According to the Carrier the Claimant was assigned to work from 8:00 A.M. to 4:00 P.M. on November 26, 1999. The Claimant thought the work hours were from 4:00 P.M. to Midnight, and therefore showed up for work at 4:00 P.M. A review of the

“Holiday Assignment List” is at best confusing. Nowhere on the list is there an 8:00 A.M. reporting time. The Crafts are listed, and to the right of some names a time is listed, such as 7:30 A.M., 9:00, etc. Under some names other times are listed. Above the Claimant’s name is “(4:00 P.M. - 12:00 MN) CUS.” It also could have been the time for the Coach Cleaner listed above the Claimant.

It is clear the list is not obvious as to who is to work when. The Claimant probably should have asked for a clarification, but by the same token the Carrier could produce a much clearer list.

The question in this case is whether the Claimant’s misreading of the list is worthy of discipline. Based on the facts as presented, the Board deems that discipline is not warranted for an honest mistake.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of June 2003.