

The Second Division consisted of the regular members and in addition Referee Joseph S. Cannavo, Jr. when award was rendered.

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

STATEMENT OF CLAIM:

1. That in violation of the controlling agreement the Burlington Northern Railroad Company suspended crew Lineman Jerry D. Good a total of thirty (30) days following investigations held on February 22-23, 1988, and failed to give timely notice of the hearing.

2. That the hearings held on February 22 and 23, 1988 were neither fair nor impartial as required by Rule 30 (a) of the controlling agreement.

3. That a pre-trial hearing was held by the Investigating Officer prior to the hearing held on February 22, 1988 and the Investigating Officer repeatedly interrupted the Representative during investigation held on February 23, 1988.

4. That the investigation held on February 23, 1988 was violative of Rule 30 paragraph (a) as the alleged incident occurred on December 15, 16, and 18, 1987, not January 15, 16 and 18, 1988 as charged. Therefore, Carrier had full knowledge for 30 days prior to the first notice of investigation and agreement language requires that the hearing be held not later than 20 days after the occurrence.

5. That accordingly, the Carrier be ordered to make Claimant whole for the entire period of suspension and all references to the disciplinary hearings should 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 employe or employes involved in this dispute are respectively carrier and employes 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.

As the result of a Hearing held on February 22, 1988, the Claimant was suspended for five (5) working days for failure to protect his assignment. The record establishes that the Carrier had an emergency on December 15, 1987, and that the Claimant absented himself from his gang on that date. Claimant admitted that he did so without authorization and in violation of the appropriate Rule. Claimant's claim that he had a doctor's appointment the following day did not relieve him of his obligation to report to an emergency. This is especially true since Claimant states he made the appointment on December 5 or 6, 1987, and never informed the Carrier until such time as he was asked to report to the emergency. On the basis of Rule 532, the Claimant's admissions and this Board's recognition that employees have an obligation to respond to emergency situations unless authorized not to, this Claim is denied.

A second Investigation was held on February 23, 1988. The Claimant was charged with falsifying claimed expense allowances on an employee expense form for the dates January 15, 16 and 18, 1988. As a result of this Investigation, the Claimant was suspended for twenty-five (25) days.

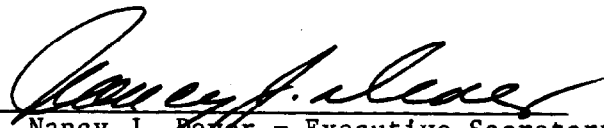
Considering the Board's Findings in the previous matter above, it is this Board's conclusion that the Carrier was justified in denying certain expenses to the Claimant. The Claimant's conduct on December 15, including his failure to report to the emergency job site and his arrival on December 17 when the emergency work was completed led the Carrier to conclude that expenses were not justified. Further, Claimant was told certain expenses would not be allowable. Having been so advised, Claimant's deliberate submission of expenses was clearly an attempt to secure from the Carrier monies he already was told would be denied. Discipline being justified, the Board will not disturb the twenty-five (25) day suspension issued the Claimant.

The Board also finds that the Carrier Official corrected errors in the original notice of Investigation timely enough for the parties to proceed without prejudice to the Claimant.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1990.