

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13741

Docket No. 13637

03-2-01-2-43

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 Agreement, Rule 35 in particular, Electrician H.A. Phillips was unjustly issued Level S Suspension of five (5) days and three (3) year probationary status by the Burlington Northern/Santa Fe Railroad company following an investigation conducted on November 29, 1999.**
- 2. That the issuance of the Level S five (5) day suspension, three (3) year probationary status and instruction that Mr. Phillips must develop a written plan with his supervisor designed to solve problems and prevent further occurrences was unjust, unwarranted and capricious.**
- 3. That accordingly the Burlington Northern/Santa Fe Railroad Company be directed to set aside such discipline and remove all record of it from Electrician H.A. Phillips’ personal file, and that he be made whole for all losses incurred.”**

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 December 17, 1999 the Carrier issued a Level S suspension for five days. As a result of an Investigation held on November 29, 1999 the Carrier found that the Claimant violated Rule S-21.1 on October 24, 1999 by failing to wear safety glasses while on duty.

There is no dispute as to the facts in this case. On the date in question the Claimant was observed by the Locomotive Foreman at about 2:45 P.M. without his safety glasses. The Claimant was instructed to put on the glasses, which was done. Shortly thereafter the Foreman again observed the Claimant with his glasses off. The Claimant admitted it was the third time in a month he had been approached about safety violations.

The Claimant was given a fair and impartial Hearing and the Carrier proved the Claimant violated its Rules. There is no basis for the Board to alter the discipline assessed in this case.

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 30th day of June 2003.