

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13743

Docket No. 13639

03-2-01-2-45

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(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 issued a Level 1 - Letter of Reprimand by the Burlington Northern/Santa Fe Railroad Company following an investigation held on November 17, 1999.
2. That the investigation held on November 17, 1999 was not a fair and impartial investigation under the terms required by the rules of the controlling Agreement and that the discipline assessed Electrician Mark Billingslea was unjust and unwarranted.
3. That accordingly the Burlington Northern/Santa Fe Railroad Company be directed to remove the Letter of Reprimand, together with all record of investigation, 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 November 29, 1999 the Carrier issued the Claimant a Letter of Reprimand. As a result of an Investigation held on November 17, 1999 the Carrier found the Claimant violated Rules S-28.6 and S-1.2.3 on October 8, 1999.

A review of the record shows that on October 8, 1999 the Carrier was preparing train 1243 for departure. When the train set that was to become 1243 arrived at the terminal, the five south cars of the train were taken to the shops for inspection, and subsequently returned to the train set. The crew made the break in the train set between car 819 and car 810. Once the train set was put back together the air hoses and electrical cables were connected between car 819 and car 810, an outbound inspection was performed and the train departed.

Once enroute, the train began having electrical problems that were traced to a problem with the electrical connection between car 819 and car 810. The Carrier surmised that the cable had been properly attached and secured when the train was put back together. Because the cable was not securely placed in the socket on car 810 and because the cable was not latched into place, it became dislodged while the train was traveling and dropped down between the two cars. At some point the cable end got lodged in the track structure and was torn off the end of the cable.

There were three employees working the train yard - the Claimant, another electrician and a carman. All three deny making the electrical connection between cars 810 and 819. The carman and the other electrician inspected the train before departure and could see nothing wrong with the connections.

A review of the record in this case shows that the Carrier failed to prove who made the electrical connections between the two cars. The Board has no way to ascertain who did what.

The Carrier failed to prove the Claimant violated its Rules.

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.