

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24125

Docket Number MW-24242

Edward L. Suntrup, Referee

**PARTIES TO DISPUTE:** ( Brotherhood of **Maintenance** of Way **Employees**  
( Burlington Northern Inc.  
( (former St. Louis-San Francisco Railway Company)

**STATEMENT OF CLAIM:** "Claim of the System **Committee** of the Brotherhood that:

(1) **The** resignation of Track Foreman H. R. **Santin** on March **19, 1980** **was** obtained **through** coercion and duress and it was thereby invalid (System File **B-1243/R-21136**).

(2) Track **Foreman** H. R. **Santin** be reinstated with all rights unimpaired and compensated for all wage loss suffered because of the violation referred to in Part (1) hereof."

**OPINION OF BOARD:** On March **19, 1980** the Claimant resigned from the employ of the Carrier: he admitted by means of a dot-t signed in the presence of three witnesses that he had used a Carrier credit card to obtain **monies** for his **own** use and the record of the transcript of an investigative hearing subsequently held on April 21, **1980** on leniency basis by Carrier **on** these matters indicates, in the mind of the Board, that sufficient substantial evidence is present to support this signed statement by Claimant.

This **Board** has gone on **record** on **numerous** occasions in the past to the effect that Carriers are not required to keep in their employ **employees** who engage in dishonest and/or fraudulent behavior (Third Division Awards **19735**, **22791** and **23098** inter alia).

The specific issue for resolution before this Board, however, is not whether Claimant is guilty of any **number** of dishonest act(s) in direct violation of **Rules** 176 and **181** for which there is sufficient probative evidence, but whether Claimant was coerced into tendering the resignation noted above on March **19, 1980**. A complete review of the transcript of the hearing held on April 21, **1981** as well as all additional **exhibits** and submissions provided to this Board on this case fail to convince this Board that the resignation of **Claimant** on March 19, **1980** was other than a free, voluntary act.

**FINDINGS:** The Third Division of the Adjustment Board, upon the **whole** record and all the evidence, finds and holds:

**That** the parties waived oral hearing;

**That** the **Carrier** and the **Employees** involved in this dispute ore respectively Carrier and **Employees** within the meaning of the **Railway** bbor Act, as approved June 21, 1934;

**That** this **Division** of the Adjustment Bosrd **has** jurisdiction over the dispute involved herein; and

**That** the Agreement was not violated.

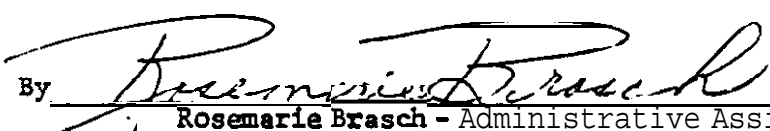
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
Notional **Railroad** Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Doted at Chicago, Illinois, this 14th day of January 1983.

