Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37246
Docket No. SG-37166
04-3-02-3-120

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(The Burlington Northern and Santa Fe Railway Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe Railway Company (BNSF):

Claim on behalf of C. E. Davis, Jr., for reinstatement to service and payment of lost wages, skill differential, benefits and expenses incurred and with all reference to this matter removed from his personal record in connection with an investigation held on October 11, 2000, account Carrier violated the current Signalmen's Agreement, particularly Rule 54, when it imposed harsh and excessive discipline against the Claimant without meeting the burden of proving the charges. Carrier's File No. 35 01 0011. General Chairman's File No. 01-003-BNSF-20-C. BRS File Case No. 11923-BNSF."

FINDINGS:

The Third 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.

The Claimant was first hired by the Carrier on September 15, 1997 after which he was assigned to a Signal Construction Gang. In that capacity the Carrier issued to the Claimant a corporate credit card that he used for lodging and meal expenses. In March 1999 he successfully bid on a Maintainer's position at Willow Springs, Illinois, with a headquarters in that location. Thus, he was no longer required to spend time away from headquarters. Despite that fact, the Claimant continued to use the corporate card for lodging expenses in the amount of slightly more than $5,500.00 until he was discovered more than one year later. He was subsequently subject to Investigation and dismissal from service. The record reflects that when the Claimant received the corporate card it was accompanied by instructions governing its use, but that he used the card for lodging when he needed a place to stay after he could no longer stay with friends after being assigned to Willow Springs, Illinois.

In our view the Carrier met its burden of proof. There is no question that the Claimant used the card as alleged and that when he received the card it was accompanied by instructions governing its use. To the extent that the Organization argues that the Claimant was unaware of these restrictions, we find that argument unpersuasive. Rather, we find it highly unlikely that an employee who was working in the field, and who therefore had an entitlement to use of the card, would be unaware that he could not use that card once his work kept him in a fixed location.

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 Third Division

Dated at Chicago, Illinois, this 27th day of October 2004.