

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37253
Docket No. SG-38105
04-3-03-3-533

The Third Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(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 (BNSF):

Claim on behalf of J. R. Skorpak for reinstatement and payment of all time lost and benefits, and for all reference to this matter be removed from his personal record, account Carrier violated the current Signalmen's Agreement, particularly Rule 54, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline of dismissal on the Claimant in connection with an investigation conducted at 1:00 p.m., on September 18, 2002, in the Claimant's absence. Carrier's File No. 35 03 0012. General Chairman's File No. 02-117-BNSF-154-TC. BRS File Case No. 12730-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 on an approved medical leave of absence from July 10 to September 10, 2002. The Claimant did not report back to work on September 10 - 11 or explain why he was absent. A Hearing was held on September 18, 2002, to ascertain the facts. Neither the Organization nor the Carrier was able to successfully contact the Claimant and obtain an explanation for his unauthorized absence.

The record indicates that the Claimant had explicit instructions concerning authorized leaves of absence and that he knew the consequences of failure to report for duty. The Claimant never returned to work and never notified the Carrier why. The discipline assessed was commensurate with the violation.

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.