

Public Law Board No. 4161

Parties to Dispute

Brotherhood of Maintenance of)	
Way Employees)	
)	Case No. 4
vs)	
)	Award No. 4
Burlington Northern Railroad)	

STATEMENT OF CLAIM

1. The dismissal of Track Laborer, R. J. Hoffman for alleged violation of BN Safety Rules 213, 660 and 662 was unreasonable and excessive.
2. The Claimant shall be reinstated to service with seniority and all other rights unimpaired, his record cleared of the charge leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS

The Claimant was advised to attend an investigation on July 8, 1981 to determine facts and place responsibility, if any, in connection with his allegedly submitting to the Carrier false information on personal injury Form 12504. This form was submitted to the Carrier on June 30, 1981. The Claimant was also accused of submitting with the personal injury report false documentation which was allegedly from a medical doctor. This documentation was in the form of an undated letter.

According to information in the record the Claimant alleged that he was injured on the job on June 12, 1981. He stated such on personal injury form 12504 and an accompanying note allegedly signed by a Dr. Frymire stated that the Claimant had such injury on that date and that he came for a consultation on June 13, 1981. At the investigation held on July 8, 1981 as scheduled the assistant foreman, Delta Yard testified that he was unaware that the Claimant had

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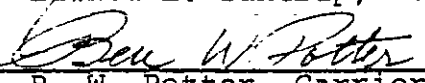
injured himself on June 12, 1981 and the timekeeper, Everett Section testified that after he had been asked to contact Dr. Frymire at the Snohomish Clinic where the physician practised he was told that the Claimant had not been treated there at all in the month of June of 1981. This verbal report to the timekeeper by this physician was accompanied by a note which stated the same. During the investigation the Claimant admitted to forging the note from the doctor although he continued to claim, which is not substantiated by any additional evidence of record, that he hurt himself on June 12, 1981.


On the basis of evidence of record the conclusion is warranted that the Claimant was guilty as charged. Although it is not clear what the Claimant's motives were, it is clear that he consciously and with forethought attempted to defraud the Carrier by submitting a false personal injury report. Arbitral forums in the railroad industry have provided abundant precedent to the effect that such behavior should not be condoned and that it is subject-matter for discharge (See Public Law Board 2206, Award 14; Public Law Board 2746, Awards 1 & 2). On the record taken as a whole the instant claim cannot be sustained.

AWARD

Claim denied.


Edward L. Suntrup, Neutral Member


B. W. Potter, Carrier Member


Karl P. Knutsen, Employee Member

Date: February 26, 1987

