

RECEIVED-DENVER
LABOR RELATIONS

JUL 15 91

JMS	✓	BYK	
RL		EJK	✓
CLJ		LM	✓
HW		RJS	✓
WAS		CJA	
MM		RWC	
CEW		DLH	

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 32

Case No. 34

STATEMENT OF CLAIM

1. The Carrier's decision to dismiss Mr. M. A. Woods was in violation of the current agreement. Said action being unduly harsh and in abuse of discretion.

2. The Carrier will now be required to reinstate Claimant to his former position with seniority and all rights restored unimpaired with compensation for all wage loss suffered.

F I N D I N G S

Following a layoff, the Claimant reported for work on January 8, 1990. Since he did not take a return-to-work physical examination having been out of work in excess of 60 days, he was directed to do so and report back to work. Nothing was heard from him thereafter.

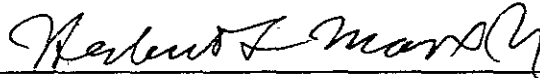
On January 19, 1990, he was sent a notice to attend an investigation concerning his absence from January 9 through January 19. The record shows that he signed for receipt of the letter. He failed, however, to appear at the

hearing. By letter dated February 5, 1990, the Claimant was notified that he was dismissed from service.

In the absence of any explanation of the Claimant's failure to follow instructions as to reporting for a physical examination and/or returning to duty thereafter, it can only be assumed that he abandoned his employment. The Carrier's notice of dismissal logically followed.

A W A R D

Claim denied.



HERBERT L. MARX, JR., Neutral Referee

NEW YORK, N.Y.

DATED: July 12, 1991