

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

1. The dismissal of Grinder Operator L. D. Metzger following an investigation, which was neither fair nor impartial, for alleged violation of Rules 564 and 572 of the Burlington Northern Safety Rules and General Rules, was without just and sufficient cause and in violation of the Agreement (System File B-Y-307/BMWE 86-5-27B).
2. The Claimant shall be reinstated with seniority unimpaired and he shall be compensated for all wage loss suffered.

FINDINGS

The Claimant, Mr. Louis D. Metzger, had been given permission by Roadmaster Yauney to sleep in a pick-up truck camper on Carrier property and to use the restroom of the Carrier's lunchroom/toolhouse. On the night of November 19, 1985, Roadmaster Yauney stopped at that facility. He found Mr. Metzger in the restroom; at that time Mr. Metzger was ill with the flu and suffering with diarrhea. The following day, November 20, 1985, Roadmaster Yauney informed Mr. Metzger that he could no longer use the toolhouse restroom facilities outside working hours, and that he could no longer park his pick-up truck in the company parking lot other than during assigned working hours.

The next day, November 21, 1985, Mr. Metzger telephoned Mr. Ben Potter, Assistant Director, Labor Relations, to complain about Mr. Yauney's decision to deny him use of the Carrier's facilities. During the course of that telephone conversation, Mr. Metzger stated that, "I ought to" (according to Mr. Potter) or "Maybe I should" (according to Mr. Metzger) ... "put a bullet between his (Mr. Yauney's) eyes and that would solve both our problems."

Because of Mr. Metzger's statement, the Carrier's Police and Special Services Department was notified. On November 22, 1985, a Special Agent took possession of a revolver from Mr. Metzger. At that time, the handgun was located in Mr. Metzger's pick-up truck, which was located on Carrier property.

Rell Dill

Ronald L. Miller
Chairman and Neutral Member

Maxine M. Timberman

Maxine M. Timberman
Carrier Member

Karl P. Knutsen

Karl P. Knutsen
Organization Member

Disseminating

4-5-88

Date