

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

1. The dismissal of Assistant Foreman K. E. Stewart for alleged "...violation of Rules 530 and 530(B) of the Rules of Maintenance of Way..." was without just and sufficient cause, based on unproven charges and in violation of the Agreement (System File S-P-380/AMWB 88-01-04).
2. The Claimant shall be reinstated with seniority and all other rights unimpaired, his record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS

During the period, April through July 1987, the Claimant, Mr. Ken Stewart was assigned the position of Assistant Foreman of Maintenance Gang #4. As such, he was responsible for providing to the Accounting Department the hours worked by each scheduled employee, including himself, on the aforementioned gang. According to the record, during the period April 15, 1987 through July 15, 1987, the original payroll records prepared by Mr. Stewart and received by the Accounting Department indicated a total of sixty-one (61) overtime hours not shown on the duplicate record received by the approving officer.

The record of this case is clear on two central points. First, the supervising Roadmaster did not authorize any of the 61 overtime hours at issue. Second, Mr. Stewart did not work any of the 61 overtime hours at the times indicated. Mr. Stewart contends that the 61 overtime hours were worked during an earlier period of time and carried forward to the April-July period for payment. However, he cannot identify when the hours were actually worked, nor was the alleged carry over authorized. To the contrary, the evidence indicates that Mr. Stewart was paid for all authorized overtime hours worked.

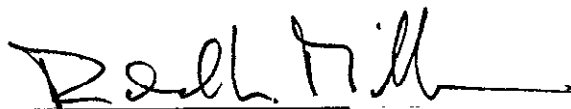
The evidence is clear and convincing that Mr. Stewart knowingly and repeatedly falsified his payroll records over a period of months. This theft constitutes severe misconduct for which dismissal is appropriate discipline.

Mr. Stewart was provided a fair and impartial investigation. In particular, the Carrier complied with the time limits prescribed by Rule 40. On August 6, 1987 (the date the Roadmaster became aware of the payroll discrepancies) an investigation notice was issued.

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AWARD

Claim denied.



Ronald L. Miller  
Chairman and Neutral Member



Bruce G. Glover  
Organization Member



Maxine M. Timberman  
Carrier Member

June 27, 1990

Date