

PUBLIC LAW BOARD NO. 4402

PARTIES)
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
) BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT OF CLAIM

- (1) The dismissal of Grinder Operator C. R. Silva for alleged violation of Burlington Northern Railroad Company Rules 500(b), 506 and 502(b) of the Rules of the Maintenance of Way Department for alleged unauthorized use of Burlington Northern credit card was unwarranted and excessive (System File Weld/Gr. 10 DI - C. R. Silva)
- (2) Mr. Silva shall be reinstated with seniority and all other rights unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD

As a result of charges dated October 22, 1984, investigation held on October 29, 1984 and by letter dated November 12, 1984, Claimant, a grinder operator employed since September 5, 1978, was dismissed from service for unauthorized use of a Carrier credit card.

On October 13, 1984, Claimant removed a Carrier credit card from a Carrier vehicle and used that card on October 14, 1984 to purchase gasoline for his own personal vehicle.

Claimant admitted that he was not authorized to remove or use the card as he did.

According to Claimant:

Q. Mr. Silva on October 13, 1984, did you take a Burlington Northern Credit Card from Vehicle #7751?

A. Uh, yes, I did. ... And I took it out and put in in my pocket.

* * *

Q. Mr. Silva, did you then, on October 14, 1984, put gasoline into your car?

A. Yes, I did.

Q. What did you use to pay for the fuel?

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OCT 14 1984
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A. The BN Credit Card that I had in my pocket.

* * *

Q. Mr. Silva, did you have proper authority to use the credit card?

A. No, I didn't.


The cited rules prohibit theft and use of the Carrier's credit without authorization. Claimant admittedly violated those rules. Substantial evidence shows that Claimant clearly intended to take the credit card from a Carrier vehicle and use that card for his own personal use without authorization. We find no mitigating circumstances in this record to conclude that dismissal was arbitrary or capricious.

AWARD

Claim denied.


Edwin H. Benn
Neutral Member


E. J. Kallinen
Carrier Member


P. S. Swanson
Organization Member

Denver, Colorado
December 7, 1988

