PUBLIC LAW BOARD NO 5850

Award No.
Case No. 102

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when on September 21, 1998, the Carrier dismissed Mr. D. Tankersley for allegedly violation of Rule 1.15 of the Maintenance of Way Operating Rules, effective August 1, 1996, in connection with his alleged failure to report for duty at the designated time and place on August 12, 1998, while assigned as trackman on TP-12.

2. As a consequence of the Carrier's violation referred to above, Claimant shall be reinstated to his former position with seniority restored, he shall be paid for all wages lost and discipline shall be removed from his record.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

On August 12, 1998, Claimant was scheduled to report to work at 6:00 AM. He did not report, nor did he bother to advise anyone in authority that he was going to be absent and why.

The Carrier scheduled an investigation and held same without Claimant who had not asked for an extension, nor had he contacted his representative about his intent.

Following the investigation, the Carrier dismissed Claimant from service. The discipline may appear harsh for a veteran with some 26 plus years of service, but after revlewing Claimant's record, it is the only recourse left. Claimant has not learned from prior disciplinary sessions having numerous suspensions, including two discharges, all because Claimant was

awol, or he walked off the job or he left the job early without permission. In fact, Claimant's rap-sheet takes up 1 ½ pages.

There was some speculation that Claimant may have entered a detox program, yet no one, including Claimant's son, knew where he was at. Even if Claimant did enter such a program, this of and by itself is not sufficient to mitigate the discipline assessed.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

Robert L. Hicks, Chairman & Neutral Member

Rick B. Wehrli, Labor Member

Thomas M. Rohling, Carrier Member

Dated: March 21, 1999