

**PARTIES TO DISPUTE:**  
(Brotherhood of Maintenance of Way Employees  
(The Burlington Northern Santa Fe Railroad

**STATEMENT OF CLAIM:**

1. The Carrier violated the Agreement when on May 22, 1998, the Carrier issued a Level 3 suspension of 20 days to Mr. B. James for the alleged violation of Rule 1.15 of the Maintenance of Way Operating Rules, effective August 1, 1996, in connection with his alleged being absent without proper authority from system Gang RP-18 from April 27, 1998 through May 8, 1998.
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.

Claimant was charged with being absent without authority. An investigation was scheduled for May 8, 1998. The investigation was held without Claimant. The Carrier notified Claimant of the investigation in a timely fashion, and the notice was receipted for. Claimant notified neither the Carrier nor his representative of his being unable to attend the May 8, 1998, investigation.

As has been often stated in most all cases, the employee cited can elect to attend or ignore the investigation. But, if he opts not to attend, he does so at his peril as there is no one to challenge Carrier's charges. Claimant's representative is present, but his function is to ensure the investigation is free from procedural error.

Claimant was absent commencing April 28, 1998, to the date of the investigation. He had no authority to be off.

Under the circumstances and in view of the record before the Board, the discipline assessed was neither arbitrary nor an abuse of authority. The Carrier furnished sufficient evidence of Claimant's culpability for the charges 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. Wehri, Labor Member

  
Thomas M. Rohling, Carrier Member

Dated: 6/28/99