

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 174**

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 November 31, 2000, the Carrier suspended Mr. J. L. Quanstrom from service for 45 days in connection with his alleged violation of Maintenance of Way Operating Rule 1.6 and Engineering Instructions, Section 21.1 based on his alleged improperly authorizing (providing computer password and approving improper payroll entries resulting in overpayments) to the Assistant Foreman assigned to Mini-Mech Tie Gang #27236.
2. As a consequence of the Carrier's violation referred to above the discipline shall be removed from Mr. Quanstrom's personal record and he shall be compensated for all wages lost, in accordance with the Agreement.

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.

The basis for this dispute are the same as found in Case No. 175; the alleged misuse and/or abuse of Pay Code 41. Claimant was the Foreman on the gang that the Claimant in Case 175 moved unto and commenced keeping the payroll.

The charge to Claimant was for the period before the Claimant in Case No. 175 commenced doing the payroll.

In reviewing the file and all related material, there is no question concerning the improper Pay Code 41 entries, but this Board is to determine whether the improper use was deliberate knowing it was wrong or a simple effort to do a proper job based on the information available.

This Board finds that the Carrier must assume total responsibility for what occurred. First of all, the pay code information sheets are, to say the least, incomplete and or misleading. Claimant commenced service with the Carrier September 25, 1995. About July, 1997, he achieved Foreman status, but he testified he has never been to a Foreman's training class, nor has he ever attended a session outlining proper payroll entries.

In the investigation, the Carrier set forth some history of revised pay code sheets, each listing pay codes and some explanations as to how each code is to be used.

The sheet issued in April, 1995, simply listed Pay Code 41 with no explanation of what it was for and how and when it was to be applied. The September, 1997, pay code revision sheet for Pay Code 41 reads, "\$42.50 - meals and lodging combined." The February 1, 2000, revision reads simply, "Meals Lodging (RLD) (MofW). Even the so-called help screen was of no real value. If anything, it was misleading just as the revision sheets quoted above. Nowhere in either of the two listings is there a caution that the use of the code was only in very limited circumstances, and definitely not to be used when Carrier provides the lodging. When the help screen stated it was for employees working more than 250 miles from home, the Assistant Roadmaster and Claimant thought they were using Pay Code 41 correctly.

Claimant cannot be found at fault for Carrier's actions and especially when

Claimant was working with a Carrier official who thought the use of Pay Code 41 was proper.

The other matter of Claimant allowing someone else his PIN number to access the payroll, it may very well be wrong but it was sanctioned by a Carrier official who is expected to know what is proper and what is not.

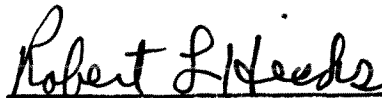
The claim will be sustained. Claimant is to be compensated for all time lost as provided in the Agreement, and all traces of this investigation are to be removed from his file.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.



Robert L. Hicks, Chairman & Neutral Member



Rick B. Wehrli, Labor Member



Thomas M. Rohling, Carrier Member

Dated: October 22, 2001