

**PARTIES TO DISPUTE:**

(Brotherhood of Maintenance of Way Employees

(The Burlington Northern Santa Fe Railroad (Former  
(ATSF Railway Company)

**STATEMENT OF CLAIM:**

1. The Carrier violated the Agreement on July 27, 2001, when it dismissed Mr. C. D. Wheeler from service for allegedly violating Maintenance of Way Operating Rules 1.1, 1.1.1, 1.1.2, 1.1.3, 1.2.5, 1.6, and 1.13, by failing to timely report a personal injury.
2. As a consequence of the Carrier's violation referred to above Mr. Wheeler shall be returned to service, the discipline shall be removed from his personal record and he shall be compensated for all wages lost, if any, 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.

Claimant, on September 19, 2000, reported an injury he sustained on September 7, 2000.

On October 9, 2000, Carrier wrote Claimant advising he was being withheld from service pending the outcome of an investigation scheduled October 18, 2000, to develop his responsibility, if any, in connection with the late reporting of the injury.

Claimant contends that he slipped on some oil in the back of the truck on September 7, 2000, and as a result sustained an injury he reported on September 19, 2000. He stated the late filing was due to the fact that the injury did not immediately cause him to think it was serious so he did not report it, yet he claimed he was in pain and worked without telling anyone until he requested to file an injury report.

A Carrier witness who was the truck driver responsible for the truck, testified that on September 6, 2000, he had the truck steam cleaned as there was hydraulic oil on the truck bed from a broken hydraulic line on the boom. Therefore, on September 7, the truck was clean and squared away.

Furthermore, no one Claimant worked with from September 7 to September 19 recalled Claimant complaining of hurting or suffering any pain, nor did anyone notice any difference in his work patterns.

Claimant's version of how and when the injury occurred is not in harmony with the witnesses who testified at the investigation.

Claimant may well have sustained an injury, but the when and how still remains unknown, and the filing and notification thereof was unduly delayed and not adequately justified.

The discipline will not be disturbed. The Carrier furnished substantial evidence of Claimant's culpability for the charges assessed.

**AWARD**

**Claim denied.**

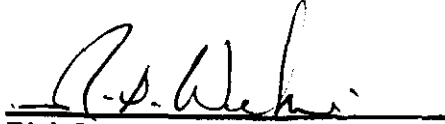
**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that**

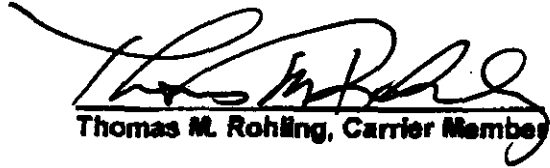
an award favorable to the Claimant(s) not be made.



Robert L. Hicks, Chairman & Neutral Member



Rick B. Wehrli, Labor Member



Thomas M. Rohling, Carrier Member

Dated: May 23, 2012