PUBLIC LAW BOARD NO. 5850

Award No. 201
Case No. 201

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes

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

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement on May 10, 2001, when it dismissed the Claimant, Mr. M. J. Martin, from service for allegedly violating Maintenance of Way Operating Rule 1.6 - Conduct, 1.13 - Reporting and Complying with Instructions, and 1.15 - Duty-Reporting or Absence, when he was absent from work without authority.

2. As a consequence of the violation referred to in part (1), the Carrier shall return the Claimant to service with seniority and rights unimpaired, remove any mention of the incident from his personal record, and make him whole for all wages lost account of this incident.

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's assignment started at 7:00 AM. At 9:00 or 9:35 AM, he called the Roadmaster to advise that he was not coming in that day because he had an appointment with his lawyer.

The Roadmaster did not agree to sanction his absence. An investigation was

scheduled, following which Claimant was dismissed from service.

When asked when Claimant knew about the request of his lawyer for a conference on April 3, 2001, Claimant advised it was the night before. When asked why he did not call the Roadmaster at that time, his response was that he did not have his phone number and he did not want to bother anyone. He was then asked why he did not call in before the starting time of his job, and he did not have a reason any more valid than not calling the night before.

This is not the Claimant's first such charge of not calling in to seek authority to be absent or to advise anyone why he would not be at work. He recently has built a pattern of no shows. He obviously has not learned of his obligation to protect the assignment he had.

Dismissal in this instance is not out of line.

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. Wehril, Labor Member

Thomas M. Rohling, Carrier Member

Dated: September 30, 2002