

PUBLIC LAW BOARD NO 5850

Award No.
Case No. 24

PARTIES TO DISPUTE

(Brotherhood of Maintenance of Way Employees

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM

Carrier's decision to dismiss Central Region Maintenance of Way employee F.L. Collins, effective February 20, 1996 was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from February 20, 1996. (03-26-AA/170-13D2-963)

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 February 14, the Carrier notified Claimant:

"...to attend formal investigation in the Roadmaster's Conference Room...at 1:00 p.m Tuesday, February 20, 1996, to develop all facts and place responsibility, if any, in connection with your alleged failure to comply with instructions governing use of Corporate Lodging Card by charging for unauthorized motel accommodations and for failure to "Stay Two to a Room" as required and for charging meals to the Company at restaurant(s) and charging for reimbursement for the same meals on Form 1665 Standard, Expense Account form, during the period from mid-August, 1994, to February 9, 1996...."

Following the Investigation, Claimant was advised on March 20, of Carrier's decision to dismiss him from service.

In the on-property exchange of correspondence between the parties, the Organization argued Carrier failed to promptly advise Claimant of its decision following the Investigation, which was issued 30 days after the Investigation. It may appear to be somewhat arbitrary to keep someone suspended from service waiting 30 days to be advised of the discipline, but inasmuch as the parties have not established a window of time in which a Claimant is to be notified of the discipline, this Board declines to do so. Nothing has been established that shows Claimant was in any way unduly harmed by the delay.

Regarding the merits of the dispute, Carrier has clearly met its burden of establishing the substantial evidence necessary to impose discipline.

Clearly established was Claimant's insistence that he not be asked to "double-bunk," that he was to be housed in a single room. This is confirmed by the General Manager of Rancho Grande Motel wherein that only once did he ask that Claimant double-bunk because of the Super Bowl Game on January 24, 1996, following which it was stated that Claimant advised the front desk manager at the motel that he should not be expected to move in with another Santa Fe employee.

Claimant fully admitted that he double billed for the evening meal on two different dates, contending it was one way he could recover some of the 80 hours overtime due him - time he did not claim. This is not an acceptable reason for the double bill.

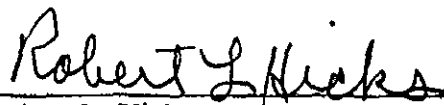
Under the circumstances, Claimant breached the trust necessary to continue as an independent machine operator for this Carrier. Dishonesty is a dismissable offense, and since this Board is not aware of any mitigating circumstances that would tend to lessen the discipline, Carrier's assessment to dismiss will not be disturbed.

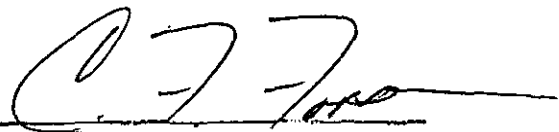
AWARD


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


C. F. Foose
Labor Member


Greg Griffin
Carrier Member

Dated 1/13/97