

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 267**

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 August 31, 2004, when it terminated the Claimant, Mr. D. L. Ahboah's, seniority pursuant to a Letter of Understanding Dated July 13, 1976, for being absent from work without authority for more than 5 consecutive days, beginning July 15, 2004; also in violation of Maintenance of Way Operating Rule 1.15.
2. As a consequence of the violation referred to in part (1), the Carrier shall immediately return the Claimant to service, remove any mention of this incident from his personal record, and make him whole for all wages beginning July 15, 2004.

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.

Pursuant to a self-executing Agreement, Claimant was absent without authority for more than five consecutive work days.

The Carrier notified Claimant of the termination and the reason, therefore.

Claimant was also advised that he could, if he disagreed with the findings, request a hearing. Claimant did just that.

On September 30, 2004, the parties convened a hearing with its witness, a Representative of Claimant and the Hearing Officer. Claimant elected to not attend, but he notified no one in advance of his intentions.

The hearing was held in Claimant's absence. There was no rebuttal to affect or mitigate Carrier's charge of being absent without authority.

Claimant's seniority rights and employment were terminated pursuant to an existing Agreement.

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


William L. Yeck, Carrier Member

Dated: February 22, 2005