

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 279**

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 May 19, 2005, when it issued the Claimant, Mr. G. D. Diehl, a 30-day actual suspension for a violation of Maintenance of Way Operating Rule 1.6 Conduct, for falsification of expense account receipts.
2. As a consequence of the violation referred to in part (1), the Carrier shall immediately remove any mention of this incident from his personal record, and make him whole for any 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, a Structures Foreman, is reimbursed actual expenses while on the road. Any single meal in excess of \$10.00 and any expense reported under the heading of "Business Entertainment" regardless of the expenditure must be supported by a receipt.

On April 19, 2005, the Carrier notified Claimant of its intent to schedule an investigation, which reads as follows:

"Attend investigation in the BNSF Depot, 800 South Main, Carrollton, MO at 1330 hours on Monday, April 25, 2004 for the purpose of ascertaining the facts and determining your responsibility, if any, for your alleged dishonesty, when you allegedly falsified your expense account for the

period of March 1, 2005 through March 31, 2005, while assigned as Structures Foreman."

The investigation was held on April 26, 2005, following which the Carrier, on May 19, 2005, wrote Claimant that as a result of the investigation he was being assessed an actual 30-day suspension from service.

Claimant's Supervisor reviews Claimant's expense account and adds his signature certifying the expense claim. While reviewing Claimant's expense account, he found three entries under the heading of "Business Entertainment" but no receipts.

Claimant did furnish receipts supposedly covering the business entertainment entries, but the Supervisor became suspicious of their authenticity, particularly one that looked like it was printed on computer paper and cut to size.

Claimant admitted the three receipts were bogus, but he did contend he spent the money claimed. However, he could not definitely state where he did spend the money.

The argument advanced was that the money claimed was a little more than Claimant's hourly wage, but fraud is fraud.

Any individual, regardless of seniority and a lily-white disciplinary record, must suffer the consequences of such acts. Fraud, theft of services or outright theft are serious violations regardless of the monetary amount.

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
Robert L. Hicks, Chairman & Neutral Member

Rick B. Wehrli
Rick B. Wehrli, Labor Member

William L. Yeck
William L. Yeck, Carrier Member

Dated:

9/29/05