

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 361**

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 when Claimant A. Vigil (1235720) was issued a 10-day Record Suspension for violation of Rule 1.15 - Reporting for Duty, Rules 1.6 - Conduct and Rule 1.25 - Credit or Property, Engineering Instructions. It was claimed that Mr. Vigil failed to report to work at designated time, while working as a Foreman on a Switch Maintenance Gang on the Clovis Subdivision at approximate 06:55 AM on Tuesday, July 15, 2008. The Claimant should be paid for all wages lost and made whole. The discipline was excessive.
2. As a consequence of the violation referred to in part 1 the Carrier shall immediately correct the Claimants discipline records and make Claimants whole for all time lost.

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 July 25, 2008, Claimant was the principle in four Investigations. This is the first of the four.

There is no question concerning Claimant's culpability for the charges assessed. His Supervisor found him in the motel's café just sitting down to breakfast with other people at 6:55 AM when his assigned hours were 6:00 AM to 4:30 PM, four days a week. His starting place is the motel, but Claimant at 6:55 AM was still at the motel eating

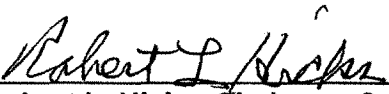
breakfast. He was not authorized to stay and eat breakfast. He should have been out with his crew.

AWARD

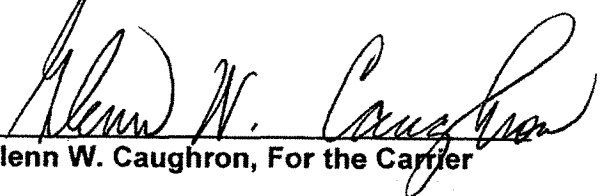
Claim denied.

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


David D. Tanner, For the Employees


Glenn W. Caughron, For the Carrier

Dated: 3/15/2010