

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 363**

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 Level S 30-day Record Suspension with a one year probation period for violation of Rules 1.6 - Conduct and Rule 1.25 - Credit or Property, Engineering Instructions. It was claimed that Mr. Vigil used company credit to pay for a hotel room when he was not performing any work on July 7, 2008, while a Switch Maintenance Gang Foreman. The Claimant should be paid for all wages lost and made whole commencing August 22, 2008 and continuing forward until returned to work. 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.

This is the third of four Investigations wherein Claimant is the principle.

This case is akin to Case 362 - using the Company credit card for personal reasons.

There is no need to get into the details. Claimant was dismissed for using the company's credit for personal use in Case 362. The Board upheld the dismissal. This issue is now moot.


AWARD

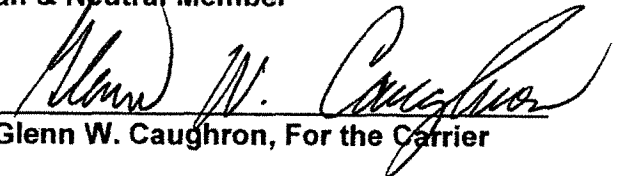
Claim denied.

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