

PUBLIC LAW BOARD NO. 5850

**Award No.
Case No. 374**

(Brotherhood of Maintenance of Way Employe

s

PARTIES TO DISPUTE:

**(The Burlington Northern Santa Fe Railroad (Former
(ATSF Railway Company)**

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when Claimant W. L. Smith (6463046) was issued a Level S 30-day Record Suspension with three years probation for violation of MOWOR 1.6 Conduct between October 31, 2006 and November 7, 2006 concerning alleged inappropriate language and creating a hostile working environment. The Claimant should be paid for all wages lost and made whole commencing January 4, 2007 and continuing forward and/or otherwise made whole.
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

AWARD

Claimant is a Track Supervisor and he supervises some 25 to 30 employees as of the day of the incident. His plans for this crew changed. One employee operating a tamper had been told earlier in the week that on this date he was scheduled to work another area of track. Upon seeing a change of his track assignment, the Tamper Operator went to Claimant to inquire about the change.

The individual was required to make changes in the work orders. The Claimant gave these instructions in language that is currently considered inappropriate for the workplace, potentially contributing to a hostile work environment. Although the language he used would not have been given a second thought in the past, current

standards for appropriate language must be applied. Claimant does have previous history in his file of this type.

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



Samantha Rogers, For the Carrier

Dated: 11/8/10