PUBLIC LAW BOARD NO. 5850

Award No.
Case No. 375

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes

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

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when Claimant K. A. Phillips (1652007) was issued a 10-day Record Suspension for violation of MOWOR 1.15 Duty - Reporting or Absence on November 30, 2006. The Claimant should be paid for all wages lost and made whole commencing November 30, 2006 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

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 October 12, 2006, the Carrier advised Claimant an Investigation would be convened:

> "...to determine all facts and place responsibility, if any, in your alleged failure to follow instructions given by Roadmaster, Phil Hausler to report to Atwater, California at 0500 hours on October 11, 2006. You are in possible violation of Rules 1.6 Conduct, Rule 1.13 Reporting and Complying with Instructions and Rule 1.15 duty Reporting or Absence of the Maintenance of Way Operating Rules in effect Sunday, October 31, 2004 with revisions up to September 2, 2006."

After a review of the transcript, it is this Board's position there was a

miscommunication in this case between Claimant and his Supervisor.

Claimant stated that he simply was to notify his Supervisor ten minutes prior to his arrival to establish a meeting point. According to Claimant, no specific place was established, nor actual time set for the meeting.

Such instructions left the time and location blank with the ten minute window in which the meeting place and time would be established.

Claimant was late. The crew's start time was 0500 hours. Claimant arrived at 0533 hours. He should have been at the lodging facility at 0500 when the crew left to go to work.

There is no Rule preventing Claimant from going to his home at the end of his workday, but he is obligated to be on time at the start of the workday. When Claimant met with his Supervisor at 0533 hours, he was 33 minutes late.

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