

PUBLIC LAW BOARD NO. 5850

Award No. 377
Case No. 377

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 Richard J. Jacques (7935521) was dismissed by letter dated October 16, 2009, for violation of BNSF Policies on Violence in the Workplace and Workplace harassment that occurred on September 16, 2009.
2. The dismissal of Mr. Jacques, who has been a dedicated employee with over thirty-one (31) years of service, is unjust, excessive, arbitrary, capricious and without merit. The Organization respectfully requests that Mr. Jacques be reinstated to the service of the Carrier, with all seniorities intact, and that he be made whole for any and all wage and compensation loss suffered.

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.

The Claimant in this case is the same employee listed in Case 376. The charges levied against him are the same in substance in this case and Case 376.

The Board denied the claim in Case 376 which supported Carrier's charges, "Violence in the Workplace and Workplace Harassment..." The only difference is the subject of Claimant's wrath.

Since Carrier's determination to terminate Claimant in that case, the issue in this

case is now moot.

AWARD

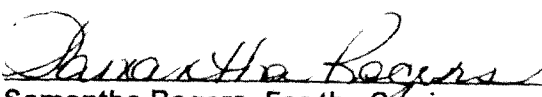
Claim denied.

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


Samantha Rogers, For the Carrier

Dated: 2/18/11