PARTIES TO DISPUTE:

(Brotherhood of Maintenance of Way Employes

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when on May 22, 1998, the Carrier dismissed Mr. R.L. Summers for allegedly violation of Rule 1.6, Conduct, of the Maintenance of Way Operating Rules, effective August 1, 1996, in connection with his alleged improper time reporting on March 26, March 31, April 2, and April 17, 1998.

2. As a consequence of the Carrier's violation referred to above, Claimant shall be reinstated to his former position with seniority restored, he shall be paid for all wages lost and discipline shall be removed from his record.

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 April 23, 1998, the Carrier advised Claimant that an investigation was being convened:

"...for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged failure for improper time reporting on March 26, 1998, March 31, 1998, April 2, 1998 and April 17, 1998 while assigned as Foreman, Center 10062, Red Rock Subdivision in violation of Rule 1.6 of the Maintenance of Way Operating Rules, effective August 1, 1996...."

Claimant was also advised that he was being withheld from service pending results of the Investigation.
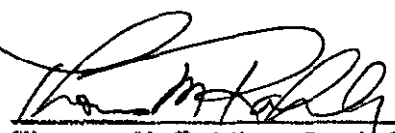
Following the investigation, Claimant was advised by the Carrier that:

"...as a result of formal investigation...you are dismissed from service effective immediately...."

award favorable to the Claimant(s) not be made.

Robert L. Hicks
Robert L. Hicks, Chairman & Neutral Member

Rick B. Wehrli
Rick B. Wehrli, Labor Member

Thomas M. Rohling
Thomas M. Rohling, Carrier Member

Dated: March 26, 1999