

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6986
AWARD # 1 CASE # 1**

PARTIES TO DISPUTE

Brotherhood of Maintenance of Way Employees

And

BNSF Railway Company

STATEMENT OF CLAIM

Case # 1

1. The Carrier violated the Agreement on November 29, 2005, when Claimant Jack S. Gillpatrick was dismissed for violation of Maintenance of Way Operating Rules 1.6 – Conduct and Maintenance of Way Operating Rule 1.13 – Reporting and Complying with Instruction.
2. As a consequence of the Carrier's violation referred to in part (1) above, the Claimant should be returned to service, paid for all lost time, and these charges removed from Claimant's personal record.

Carrier File No. 12-06-0008

Organization File No. B-3039-1

FINDINGS

A review of the transcript of the Investigation held on November 21, 2005 notes that the Claimant was notified to attend the Investigation "... for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged failure to comply with Burlington Northern Santa Fe MOW Operating Rule 1.6 Conduct and 1.13 Reporting and Complying with Instructions, when you allegedly made a purchase with BNSF Visa Procurement Card for personal use on October 16, 2005.

The Board has reviewed the entire file in regards to this claim and it is evident that the Carrier has met their burden of proof in this matter. The Claimant during the Investigation admitted that he had misused the Company VISA Card and offered to reimburse the Carrier.

As previously indicated there is no question regarding the Claimant's guilt. The question before this board is should the Claimant have been terminated for his rule violations?

Based on the facts before this Board in this particular case the Carrier was well within their rights when they choose to discharge the Claimant.

AWARD

Claim denied in accordance with the findings.

Don A. Hampton
Don A. Hampton, Chairman & Neutral Member

R.C. Sandlin
R.C. Sandlin
Organization Member

Samantha Rogers
Samantha Rogers
Carrier Member

DATED: May 31, 2007