

PUBLIC LAW BOARD NO. 5850

Award No.  
Case No. 382

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(The Burlington Northern Santa Fe Railroad (Former  
(ATSF Railway Company)

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when Claimant Floyd Powell Sr. (1611094) was issued a non-serious 30-day record suspension with one year probation by letter dated December 28, 2009 for violation of MOWOR 1.11, sleeping while on duty on November 12, 2009.
2. As a consequence of the violation referred to in part 1 the Carrier shall immediately correct the Claimant's discipline records and make the Claimant 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.


This is a companion Case to Case 381 of this Board. Claimant had changed seats with the driver. He was discovered with his eyes closed and head against the window. This is the only difference between the two cases.

The Board finds it is unnecessary to add any more detail to its Findings set out in Case 381. The facts in that case are incorporated into and made a part of this case.

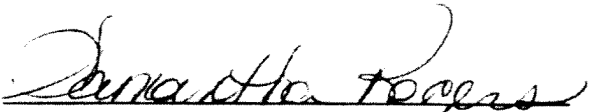
AWARD

Claim denied.

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