

PUBLIC LAW BOARD NO. 2206

AWARD NO. 14

CASE NO. 21

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Burlington Northern, Inc.

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- "(1) The dismissal of Section Foreman E. A. Carignan, October 12, 1977 was without just and sufficient cause and wholly disproportionate to the alleged offense. (System File T-W-129C)
- "(2) Section Foreman E. A. Carignan be reinstated with all seniority and other rights unimpaired and be compensated for all time lost."

OPINION OF BOARD:

Claimant Earl A. Carignan formerly was employed by Carrier as a Section Foreman. Following due notice and investigation he was found guilty of being absent from duty without authorization and of falsification of his time record on September 13, 1977. On the basis of those findings and review of his prior personnel record Claimant was dismissed from service effective October 12, 1977.

The record establishes through unrefuted testimony and Claimant's admissions that he absented himself for four hours without permission on the afternoon of September 13, 1977, and falsely claimed those hours on his time roll as time worked. He was found out only because the Roadmaster tried to contact him that day and was unable to find him. Claimant's only defense was that he made a mistake and would not do it again. We cannot find that Carrier erred

in rejecting that defense and determining that the time was claimed falsely and improperly. See P. L. Board No. 2071, Award No. 5.

The seriousness of Claimant's misconduct and his previous work record were explored fully in conferences on the property. Despite intensive efforts by the Organization, the Carrier has refused to reinstate Claimant even on a leniency basis. We find nothing in this record to cause us to substitute our judgment for that of Carrier.

FINDINGS:

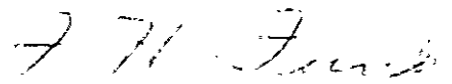
Public Law Board No. 2206, upon the whole record and all of the evidence, finds and holds as follows:

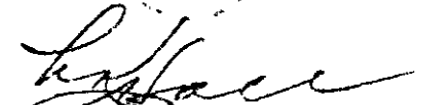
1. That the Carrier and Employee involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act;
2. that the Board has jurisdiction over the dispute involved herein;
- and
3. that the Agreement was not violated.

AWARD

Claim denied.


Dana E. Eischen, Chairman


F. H. Funk, Employee Member


L. K. Hall, Carrier Member

Date: July 17, 1979