

PUBLIC LAW BOARD NO. 2206

AWARD NO. 69

CASE NO. 72

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) That the dismissal of Welder, J. E. Conger May 2, 1979, was without just and sufficient cause and wholly disproportionate to the alleged offense. (System File S-S-168C)
- (2) Welder, J. E. Conger be returned to service with all seniority rights and privileges restored, his record be cleared and paid for all time lost.

OPINION OF BOARD:

In the Spring of 1979 Claimant was working as a Welder headquartered at Bonners Ferry, Idaho, but working frequently away from headquarters. While on the road, Claimant was entitled to reimbursement for certain expenses under Rule 36 of the BN/BMWE Agreement, as follows:

"Employees, other than those covered by Section B of this rule, will be reimbursed for cost of meals and lodging incurred while away from their regular outfits or regular headquarters by direction of the Company, whether off or on their assigned territory. This rule not to apply to mid-day lunch customarily carried by employees, nor to employees traveling in exercise of their seniority rights."

His expense account for March 1979 came under scrutiny by Roadmaster J. E. Weltham, who questioned the propriety of a number of claimed evening meals and lodging expenses. As a result of these questions, Claimant was notified by letter of April 9, 1979 to attend an investigation "for the purpose of ascertaining the facts and determining your responsibility in connection with your alleged excessive claims submitted on your March 1979 expense account".

Based on evidence adduced at that hearing, including Claimant's admissions, Carrier notified him of his dismissal from service effective May 2, 1979. The Organization appeals the dismissal to our Board on grounds that the penalty assessed was too severe and, due to his nine years of service, Claimant should be given another chance. The record clearly shows that Claimant's submitted false and inflated claims in his March 1979 expense account. He received a fair and impartial investigation, the proven misconduct is a serious breach of duty and honesty, and the penalty assessed although severe cannot be deemed so unreasonably harsh that we may reverse Carrier's managerial discretion. Leniency in cases of such proven, indeed admitted, serious misconduct is for Carrier and not for this Board to grant.

AWARD

Claim denied.

F. H. Funk
Employee Member

W. H. Hodynsky
Carrier Member

Dana E. Eischen, Chairman

Date: November 30, 1982