

PUBLIC LAW BOARD NO. 4104

Case No. 6

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employees  
vs.  
Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The dismissal of Section Laborers M.D. Douglas and S.A. Knotts for alleged violation of Rule 565 was arbitrary, capricious and on the basis of unproven charges (System Files 3 Gr MWA 82-12-3B and 3 Gr MWA 82-12-28).
2. The claimants shall be reinstated to service with seniority and all other benefits unimpaired, their records cleared of the charge leveled against them and they shall be compensated for all wage loss suffered."

OPINION OF BOARD: The facts of this claim are identical to and have been consolidated with Case No. 5, decided herewith. Accordingly, and for the reasons stated therein, this Board makes the following determination. Claimants are not guilty of the use of alcoholic beverages. However, they are guilty of possession of alcohol in violation of Rule 565. Under, these circumstances, Claimants are entitled to restoration to service. However, the Board concludes that no back pay is appropriate.

Thus, the claim is sustained to the extent indicated in this Opinion as further clarified in Case No. 5 also decided today.

## Case No. 6

FINDINGS: The Public Law Board No. 4104 upon the whole record and all of the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934:

That the Public Law Board No. 4104 has the jurisdiction over the dispute involved herein; and

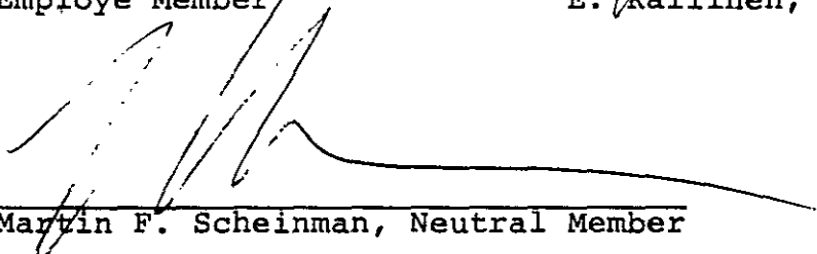
That the Agreement was violated.

## AWARD:

Claim sustained to the extent indicated in the Opinion.

  
P. Swanson, Employee Member

  
E. Kallinen, Carrier Member

  
Martin F. Scheinman, Neutral Member

Feb. 7, 1989