

Public Law Board No. 4161

Parties to Dispute

Brotherhood of Maintenance of)	
Way Employees)	Case No. 29
)	
vs)	Award No. 37
)	
Burlington Northern Railroad)	

STATEMENT OF CLAIM

1. The dismissal of Group 2 Machine Operator R.A. Best for alleged violation of Rule 500 was arbitrary, capricious, unwarranted, without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement.
2. The Claimant shall be reinstated with seniority and all other rights and benefits unimpaired, his record cleared of the charges levelled against him and he shall be compensated for all wage loss suffered.

FINDINGS

The Claimant was advised to attend an investigation in connection with his alleged improper claim for expenses. Following the investigation the Claimant was informed that he has been found in violation of Rule 500 for stealing from the Carrier. He was dismissed from service.

The Rule at bar which is applicable to this dispute reads, in pertinent part, as follows:

Rule 500

Employees will not be retained in service who are...dishonest.

The Claimant was headquartered in Glasgow, Montana. During January of 1983 he was working away from his headquarters between Summit and Essex, Montana. While away from headquarters, it is customary to submit an account of expenses incurred for reimbursement. Claimant submitted an expense sheet for several dates in January, including January 12th. There is a statement found

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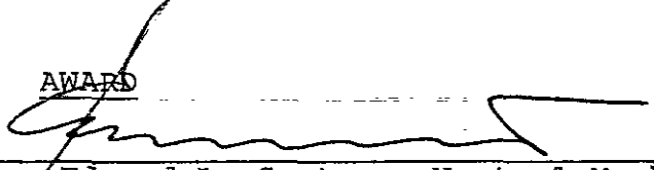
on the lower left hand corner of each expense form which says the following: "I certify that the information shown on this form is a true statement of labor agreement expense allowances due me".

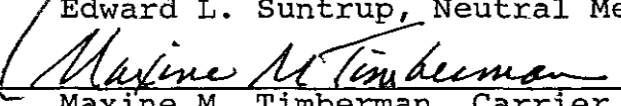
The record is clear that the Claimant defrauded the Carrier by claiming expenses for a day on which he was absent from work. During the investigation the Claimant admitted that he was out sick on January 12th. The Claimant himself testified at the investigation that by submitting an expense voucher for a day when he was not at work was a violation of Rule 500. The Organization relies on the excuse that the Claimant had no intention of defrauding the Carrier and that the submission of an incorrect expense form was simply an oversight on the Claimant's part. Regardless of whether the Claimant's actions were intentional or simply negligent, the Claimant wrongfully took Carrier property and the argument that such wrongful act was an oversight is insufficient to relieve the Claimant of liability. Numerous arbitral conclusions in this industry have held that defrauding or stealing from a Carrier is a serious violation and is grounds for dismissal (See Second Division 6214,6615,7519; Third Division 13130; Public Law Board No. 4161, Award 1 inter alia).

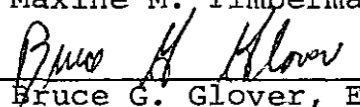
On basis of the record as a whole the claim cannot be sustained.

The claim is denied.

AWARD


Edward L. Suntrup, Neutral Member


Maxine M. Timberman, Carrier Member


Bruce G. Glover, Employee Member

Date: July 19, 1990