PUBLIC LAW BOARD NO. 4340
Joseph Lazar, Referee

AWARD NO. 24
CASE NO. 24

PARTIES TO DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
and
BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM: "Claim in behalf of Roadmaster S. Gunn that he be reinstated to service with all rights intact, paid for all time lost and that the charges be removed from his service record as a result of his dismissal July 25, 1989."

FINDINGS: The Board finds upon evidence of record that the parties are Carrier and Employe under the Railway Labor Act of 1934 and amendments thereto, that pursuant to Agreement of the parties the Board has jurisdiction over the parties and the subject-matter, and that oral hearing has been duly waived by all the parties, including Claimant.

Claimant was dismissed on July 25, 1989 "due to submission of falsified motel receipts in November and December, 1989 in violation of Rule 530, 530(A), and Rule 530(B) of the Burlington Northern Railroad Rules of the Maintenance of Way.

Rule 530 states, in part: "Employes will not be retained in the service who are ... dishonest...". Rule 530(A) states: "Employes who withhold information, or fail to give factual report of any irregularity, accident or violation of rules, will not be retained in the service." Rule 530(B) states: "Theft or pilferage shall be considered sufficient cause for dismissal from railroad service."

Exhibit "C", transcript of investigation, shows Claimant's statement that: "The Days Inn receipt # 6047 is invalid and also the Clark Motel receipt is invalid. I did not stay at the Days Inn any of these days. Days Inn receipt # 6045 is invalid." Claimant, when asked, "Did you make out these receipts yourself?", answered, "Yes sir." When Claimant was asked, "Why did you submit these invalid receipts on your expense accounts?", he answered: "I was spending a lot of money for personal reasons, and this was the only way I had to get back some of my money."

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The evidence of record shows substantial probative evidence in support of the Carrier's determination that Claimant violated Rules 530, 530(A), and 530(B) of the Burlington Northern Rules of the Maintenance of Way.

The Board has considered Claimant's contention that he actually incurred the expenses that he submitted on his November and December, 1988 expense reports, and his contention that what he did in falsifying receipts for lodging was just doing what has been allowed for years and years -- that this was established practice. Express or implied authorization of expense for lodging under various operational conditions is quite different from the kind of falsification here involved by the Claimant. The facts of record show that Claimant's expenditures involved "personal" expenditures that were definitely outside the business expense category, and Claimant frankly admitted to their "personal"nature. If Claimant, as an Officer and employee of the Carrier had knowledge of specific fraudulent falsifications of motel receipts by other employees, it was his obligation under Rule 530(A) to report and correct this wrongful behavior. Wrongful behavior of other employees, if in fact it took place, did not license Claimant to engage in it himself.

The falsification of the receipts, showing dates and rooms and signatures and amounts, repeatedly, with full awareness of the falsities and with the intention to falsify so as to obtain moneys from the Carrier for non-business expenditures, and succeeding in obtaining the moneys, constituted a grave offense in violation of the rules and fully warranted dismissal.

AWARD

1. The Carrier is not in violation of the Agreement.

2. The claim is denied.

JOSEPH LAZAR, CHAIRMAN AND NEUTRAL MEMBER

DATED: August 21, 1990