

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 6

Case No. 11 ----

STATEMENT OF CLAIM

Claim on behalf of W.W. Sanders, Jr., for all wage loss as a result of his dismissal from service on February 24, 1987, that he be returned to service with seniority and other rights unimpaired and that his record be cleared of the charge.

F I N D I N G S

On February 24, 1987, following an investigative hearing, the Claimant was dismissed from service in connection with his "absence from duty without proper authority since November 7, 1984, while assigned as Trackman on Section Gang at Fort Worth".

The Claimant was injured in an on-duty occurrence on August 3, 1984. He returned to work for one day on November

7, 1984, but he then complained of further discomfort and did not report for work thereafter. Subsequently, the Claimant received a note from his physician stating that he was able to work as of March 18, 1985.

According to the Claimant's testimony, he made attempts to return to work with the Carrier at a location other than his regular assignment. He failed, however, to report to the Roadmaster at Fort Worth, his last place of employment.

For whatever reason, no action was taken by the Carrier during this period to determine the Claimant's status. Nevertheless, on August 18, 1986, the Carrier sent the following letter to the Claimant:

Records indicate you have not worked since November, 1984.

You are hereby instructed to notify this office at the above address the reason for your absence. If it is due to medical problems, we must have a statement from your doctor indicating the severity of your condition and when we can expect you to return to work.

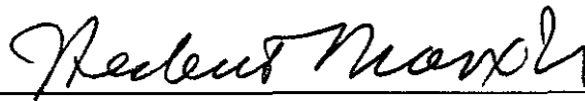
We must have this information within 15 days. If it is not received by this date, further action will be taken.

At this point, it was the Claimant's clear obligation to comply with the instructions in this letter. He failed to do so. He was then directed, on January 16, 1987, to attend the investigation which led to his dismissal.

The investigative hearing produced no satisfactory explanation of the Claimant's failure to report for work at his last place of assignment or, more significantly, for his failure to respond to the August 26, 1986 letter. The Carrier properly determined that the Claimant had abandoned his employment, and the resulting dismissal was the logical consequence.

A W A R D

Claim denied.

A handwritten signature in cursive script, reading "Herbert Marx, Jr.", is written over a horizontal line.

HERBERT L. MARX, JR., Referee

NEW YORK, NY

DATED: June 9, 1988