

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

The Burlington Northern Railroad Company is in violation of Rule 40 of our effective Agreement. The assessment of ten (10) days was excessive, unjust and unwarranted. Mr. Lehde was not in violation of Rule 52, but was complying with Rule 36 and 35. Mr. Lehde was foreman of the job at this location and is the proper authority to grant the permissions to be absent or to remove unauthorized personal (sic) or whatever at 9:00 a.m. on November 10, 1983.

This claim is for pay for all lost time including the overtime worked by the Crew, and the removal of this Investigation from his personal records.

FINDINGS

The Claimant, Mr. Allyn Lehde, was serving as a gang foreman at the time of this incident. Mr. Lehde's supervisor visited the work location and found the crew idle. Mr. Lehde was located off Carrier property in an automobile with a woman.

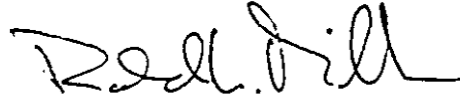
Mr. Lehde admits that he absented himself from his work location. He contends that he did so in the course of removing a "crying and distraught" woman (an ex-friend of the Claimant's) from the work location.

That the woman had been on Carrier property near the work location is not in dispute. Moreover, Mr. Lehde properly led the woman away from the work location. There is no justification, however, for Mr. Lehde to have entered the car with the woman and remained in the car for a period of time, all this while the crew was idle. Mr. Lehde did not act reasonably in this matter; other options were available to Mr. Lehde in the exercise of his duties and responsibilities.


Discipline is warranted in this case. However, given the circumstances, the ten (10) days suspension is excessive and shall be reduced to a five (5) day suspension.

AWARD

The ten (10) day suspension shall be reduced to a five (5) day suspension.
Mr. Lehde shall be compensated for wages lost during the five (5) days.



Ronald L. Miller
Chairman and Neutral Member



Maxine M. Timberman
Carrier Member



Karl P. Knutsen
Organization Member

3-31-88

Date