

Award No. 8
Case No. 8

PUBLIC LAW BOARD NO. 5696

PARTIES
TO
DISPUTE:

Burlington Northern Railroad Company

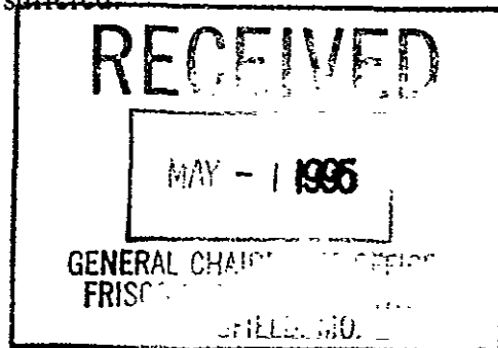
AND

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The discipline of dismissal imposed upon Mr. D.C. Slous for his alleged responsibility in connection with the altercation which took place on June 3, 1994, at the Days Inn Motel in Lenexa, Kansas, was unwarranted and without just and sufficient cause.
- (2) As a consequence of the Carrier's violation referred to above, Claimant shall be reinstated to his former position with all rights unimpaired, and the charges against him shall be expunged from his record and he shall be compensated for all wage loss suffered.



FINDINGS

Upon the whole record the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

This is the companion case to that discussed in Award No. 7 of this Board. The Claimant here was the other protagonist in the altercation which was described in the prior discussion. The investigation of this matter clearly reveals that Claimant was one of the two participants in a serious altercation starting with verbal comments and ending with physical violence on the part of both participants on the date in question. There can be no doubt but that both participants must share responsibility for the altercation. The fact that it was off-duty at a Company-provided lodging is immaterial under the circumstances. It was clearly on Company property and was between two members of the same crew who, at the time, were off-duty. The Company was correct in the discipline assessed and the claim must be denied, since such conduct on the part of employees is intolerable.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman

Stamford, Connecticut

May 5, 1995