

PUBLIC LAW BOARD NO 5850

Award No.
Case No. 103

PARTIES TO DISPUTE:
(Brotherhood of Maintenance of Way Employees
(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when on September 22, 1998, the Carrier dismissed Mr. D. Tankersley for allegedly violation of Rule 1.15 of the Maintenance of Way Operating Rules, effective August 1, 1996, in connection with his alleged failure to report for duty at the designated time and place on August 14, 1998, while assigned as trackman on TP-12.
2. As a consequence of the Carrier's violation referred to above, Claimant shall be reinstated to his former position with seniority restored, he shall be paid for all wages lost and discipline shall be removed from his record.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Claimant was scheduled to report to work at 6:00 AM on August 14, 1998. He did not report, nor did he contact anyone in authority to advise that he would not be at work and the reason therefore.

An investigation was scheduled and held without Claimant. He failed to notify anyone, including his representative, that he would not or could not attend the hearing.

Following the investigation, Claimant was issued a dismissal letter, which became the second such letter (see Case 102).

This Board has already upheld Carrier's right to dismiss Claimant in Case 102, thus rendering this dispute moot.

AWARD

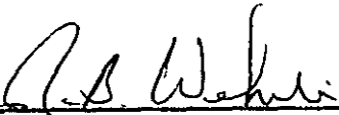
Claim dismissed.

ORDER

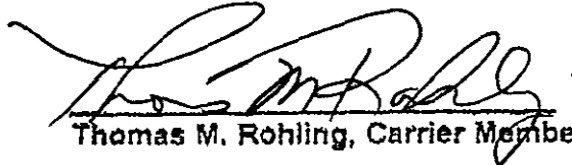
This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.



Robert L. Hicks, Chairman & Neutral Member



Rick B. Wehrli, Labor Member



Thomas M. Rohling, Carrier Member

Dated: March 26, 1999

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