

PUBLIC LAW BOARD NO 5850

Award No
Case No 13

PARTIES TO DISPUTE

(Brotherhood of Maintenance of Way Employees

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM

1. That the Carrier's decision to remove Western Region, L. L. Sanchez from service was unjust.
2. That the Carrier now reinstate Claimant Sanchez with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of Investigation held 9:00 a.m. on May 22, 1996 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, credible evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, removal from service is extreme and harsh discipline under the circumstances.
3. That the Carrier violated the Agreement particularly but not limited to Rule 13 and Appendix 11 because the Carrier did not introduce substantial, credible evidence that proved the Claimant violated the rules enumerated in their decision.

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

When an employee is absent without authorization for five consecutive work days, he is advised that his seniority is terminated, and if he desires an Investigation, he must request same within twenty days from the date of the notice

Claimant timely requested the Investigation, during which Claimant readily admitted that he was absent without authority. He also stated he knew he should have called somebody, but he didn't.

Claimant has not worked since February 7, 1996. The termination notice was written February 20, 1996. Claimant's reasons for being off possibly would have sufficed for a leave of absence or at least some time off with permission, but he failed to communicate with anyone in authority. He just let it slide.

Claimant has been with the Carrier since 1981, and he had one disciplinary hearing for being absent without authority for which he had been assessed a deferred suspension, so this Board is of the opinion that Claimant knew better than just to walk away from his job without telling someone.

AWARD

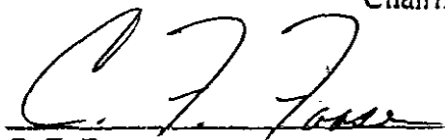
Claim denied

ORDER

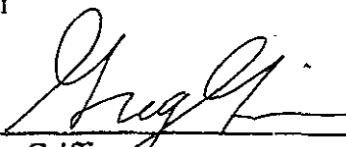
This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.



Robert L. Hicks
Chairman and Neutral Member



C. F. Foote
Labor Member



Greg Griffin
Carrier Member

Dated 10/1/96