

PUBLIC LAW BOARD NO. 5850

**Award No. 166
Case No. 165**

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 November 11, 1999, Mr. R. P. Edwards was dismissed from service for his alleged violation of Engineering Instruction 22.6 and Rules 1.15 and 1.13 of the Maintenance of Way Operating Rules Effective January 31, 1999 as revised in conjunction with his alleged absence from duty without authority on October 18 through 26, 1999 and his continuing absence.

2. As a consequence of the Carrier's violation referred to above, the Claimants shall be reinstated with seniority, vacation, all other rights unimpaired, the discipline shall be removed from the Claimant's personal record, and he shall be compensated for all wages lost, in accordance with the Agreement.

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.

This is the final of three cases involving Claimant (see Cases 164 and 165) wherein he failed to protect a vacancy at Macomb, Illinois. He was absent without authority October 18 thru 26, 1999.

An investigation was scheduled and again Claimant exercised his option not to

attend, thus leaving the evidence Carrier presented standing unchallenged.

Claimant had the opportunity to defend himself, to present evidence supporting the Organization's post-investigation claim that Claimant was never assigned to Macomb.

Obviously, Claimant has no interest in working for the Carrier.

The Organization raised the issue of Carrier's failure to notify the "appropriate Local Organization Representative." This issue has been fully discussed in Case No. 164 of this Board and what has been said there is incorporated in its entirety in this Award.

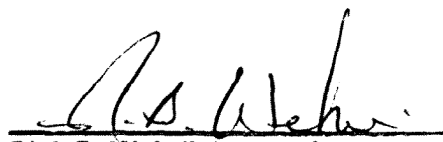
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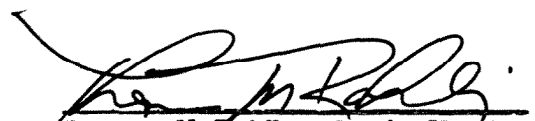
Claim denied.

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 & Neutral Member


Rick B. Wehrli, Labor Member


Thomas M. Rohling, Carrier Member

Dated: August 6, 2001