

PARTIES TO DISPUTE:
(Brotherhood of Maintenance of Way Employees
(The Burlington Northern Santa Fe Railroad (Former
(ATSF Railway Company)

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement on April 16, 2001, when it issued Mr. F. L. Hendrickson a 30-day actual suspension for allegedly violating Maintenance of Way Operating Rule 1.13 when he left work without proper authority on March 12, 2001.
2. As a consequence of the Carrier's violation referred to above Mr. Hendrickson shall be returned to service, the discipline shall be removed from his personal record and he shall be compensated for all wages lost, if any, 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.

Claimant was charged with vacating his assignment early on March 12, 2001, and with failure to protect his assignment on March 13, 2001, without proper authority, plus failing to follow instructions. Serious charges that if proven, could lead to serious time off if not permanent termination.

Claimant on Monday, March 12, 2001, reported to the Roadmaster on March 12 to

fill out an injury report, then left the premises. He did call in on the 13th, and left a voice mail stating he would not be in that day and the reason was "the same reason".

It appears the Roadmaster was attempting to impress upon the Claimant the necessity to work full days each day his assignment is scheduled as he had instructed Claimant that if he wanted off, he had to contact the Roadmaster personally, not leave voice messages advising he would not be in.

Claimant appears to have a problem protecting his assignment full time, hence the Roadmaster's instructions of personal phone dialogue with him, but in this instance it appears that Claimant called in on the 9th of March and left a message advising that he was not coming in because of "a twinge on the right side of lower back" when he got out of the truck. Claimant also called in and left a message to be off on March 14 and 15. Claimant was not charged with being off without proper authority on those days, yet those absences were conveyed to the Carrier via voice mail. Claimant was, however, charged with leaving his assignment without authority on the 12th and failing to report for work on March 13.

Claimant has a lousy attendance record, but this is not the proper setting to address his absenteeism problem. He claimed he was injured climbing out of the truck on March 8. His absence on March 9 was not questioned, nor his absences on March 14 and 15, nor has anyone questioned his injury, thus this Board accepts the injury as being legitimate and that was the reason for Claimant's absences. Regarding the charge of failing to follow instructions, Claimant did have directions to call the Roadmaster direct to receive permission to be off which he did not do.

Under the circumstances, the 30 day actual suspension is cancelled.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.

Robert L. Hicks
Robert L. Hicks, Chairman & Neutral Member

Rick B. Wehrli
Rick B. Wehrli, Labor Member

Thomas M. Rohling
Thomas M. Rohling, Carrier Member

Dated: August 14, 2012