

PUBLIC LAW BOARD NO. 5850

**Award No. 200
Case No. 200**

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 19, 2001, when it dismissed the Claimant, Mr. A. R. Leija, for alleged misuse of the company credit card in violation of Maintenance of Way Operating Rule 1.6 Conduct, and 1.25 Credit or Property.
2. As a consequence of the violation referred to in part (1), the Carrier shall return the Claimant to service with seniority and rights unimpaired, remove any mention of the incident from his personal record, and make him whole for all wages lost account of this incident.

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.

There exists no controversy in this case. Claimant readily admitted he used the company credit card to buy gas for his own vehicle. He related how he drove the company truck to the service station, parked it to the side, walked to his home about ¼ mile away, drove his vehicle to the gas station, then placed the company truck on one side of the pump, his vehicle on the other side and pumped away, charging all to the

Carrier.

Theft is theft. Clear records, longevity, and outstanding service do not mitigate against discipline assessed in theft cases. The discipline of dismissal was not unduly harsh nor contrary to any Schedule Rule and/or Agreement.

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 & Neutral Member


Rick B. Wehrli, Labor Member


Thomas M. Rohling, Carrier Member

Dated: September 30, 2012