

PUBLIC LAW BOARD NO. 5850

**Award No. 207
Case No. 207**

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 July 6, 2001, when it issued Mr. W. D. Sullivan, a 10-day record suspension for allegedly violating Maintenance of Way Safety Rule S14.1.2, for failing to properly wear his seat belt.
2. As a consequence of the violation referred to above, the Carrier shall remove any mention of the incident from Mr. Sullivan's personal record, and make him whole for any wages lost, per 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 sustained an injury April 19, 2001, while working as a sectionman on a spiker. He admittedly was not wearing a seat belt.

Rule 14.1.2 reads:

"...Wear seatbelts while operating or riding in equipment or vehicles that are equipped with them...."

The following appeared in the transcript:

"236. Q. So that on April 19th you were not wearing a seat belt when you sustained a personal injury near Contraba, Illinois?

A. No. I wasn't."

The above-quoted Q&A involved Claimant. There can be no doubt of Claimant's culpability. The discipline is not out of line.

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, 2002