

**PUBLIC LAW BOARD NO. 5850**

**Award No. 211  
Case No. 211**

**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 January 3, 2002, when it issued the Claimant, Mr. W. G. Stroup, a 30-day record Book suspension, for allegedly violating Rules 1.1, 1.12, and 6.3.4 of the Maintenance of Way Operating Rules, Rules S-1.1 and S-1.5.2 of the Maintenance of Way Safety Rules, Rule 1.13 of the Engineering Instructions, and Rule 1.6.4G of the Track Welders Manual; resulting in a personal injury to himself.**
- 2. As a consequence of the violation referred to in part (1), the Carrier shall remove any mention of the incident from the Claimant's personal record, and make him whole for any 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.**

**This is a companion case to the incident outlined in Case No. 210 of this Board. Claimant was injured.**

**The major Rule is that contained in the Track Welding Manual requiring all equipment to be placed at least 8 feet from the rail, when it is possible to do so. It was**

possible in this instance. As stated in Case 210, the power cable was on the outside of the track, but laying on the tie butts.

When Claimant was asked if he understood the Rules he was allegedly in violation of, he responded by simply stating it was the first time he had heard of the 8 foot Rule. It was then developed he was never issued a copy of the Track Manual.

Ignorance of a Rule does not automatically call for a mitigation of discipline, but when a Claimant is cited for violating a Rule in a book that has never been issued to him, he cannot be held in violation thereof.

### AWARD

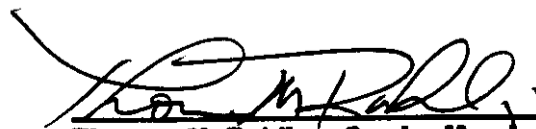
Claim sustained.

### 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, Chairman & Neutral Member

  
Rick B. Wehrli, Labor Member

  
Thomas M. Rohling, Carrier Member

Dated: December 30, 2002