

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE:

(Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

Carrier's decision to remove former Eastern Region District 2 Trackman W. D. Black from service, effective July 18, 1995, was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from July 18, 1995.

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 is in effect on the property, a mutually agreed to understanding that an employee absent from duty for five or more consecutive work days without proper authority will be notified by certified mail return receipt that his seniority and employment have been terminated. The employee so notified has 20 days from date notified to request an investigation, if he so desires.

Claimant was absent without proper authority on July 10, 11, 12, 13, 14 and 17, 1995. On July 18, 1995, the Carrier mailed

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Claimant, at the address on file, the letter of termination. It was returned by the post office stamped "unclaimed."

Suffice to say, Claimant did not request an investigation.

The Organization contends that Claimant was deprived of his right to an investigation as the address Carrier had on file for Claimant differed from the address they had on file.

The Carrier responded they had no evidence of Claimant filing with them a change of address, and that they fulfilled their obligation under the Rule by notifying Claimant at the address on file.

If Claimant did change his address from that on file with the Carrier, he did not furnish any evidence that he did file a change of address with the Carrier. The burden was upon the Organization to establish that Carrier maintained an incorrect address for Claimant. This was not done. The claim will be denied.


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, Arbitrator


C. F. Foose
Labor Member


Greg Griffin
Carrier Member

Dated 5-10-96