

PUBLIC LAW BOARD NO. 5850

Award No.
Case No. 309

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 when Claimant, S. P. Fisher, was assessed a 20-day record suspension on June 5, 2006 for a violation of Maintenance of Way Operating Rules 1.4-Carrying Out Rules and Reporting Violations, 1.6-Conduct, and 1.13-Reporting & Complying with Instructions when Claimant claimed unauthorized vacation pay for January 13, 2006; and
2. As a consequence of the violation referred to in part 1 the Carrier shall immediately return the Claimant to service with seniority, vacation and all other rights unimpaired, remove any mention of this incident from Claimant's personal record, and make Claimant whole for all time lost commencing March 7, 2006.

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.

The Claimant in this case is the same Claimant in Award 308. The day of March 13 was part of that procedure as he was off 3 days that were not authorized. In this case, even though the 13th should have been listed as unauthorized, Claimant's Supervisor who reviews the payroll, found Claimant claimed a floating vacation day. It

was unauthorized.

When the improper claim was noted by the Supervisor, an Investigation was convened after which the Carrier issued discipline of a 10-day record suspension.

There is nothing for this Board to ponder. Claimant was not authorized to claim a floating vacation day.


Claimant's defense was that several days prior to the 18th he was authorized to claim one day as a floating vacation day, but not on the 13th. Apparently, Carrier accepted Claimant's story of incorrectly marking the 13th as a floating vacation day as the discipline levied is very light.


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


David D. Tanner, For the Employees


Samantha Rogers, For the Carrier

Dated: March 10, 2008