

PUBLIC LAW BOARD NO. 5850

Award No. 380

Case No. 380

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 R. Hosteen (6595423) was issued a non-serious 30-day record suspension by letter dated November 2, 2009 for failure to report to duty on September 7 and 8, 2009.
2. As a consequence of the violation referred to in part 1 the Carrier shall immediately correct the Claimant's discipline records and make the Claimant whole for all time lost.

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, who started with the Carrier July 26, 1979, did not protect his assignment on September 7 and 8, 2009. The Carrier called for an Investigation to determine what occurred.

Claimant, in his 30 plus years of service, should know that to mark off his assignment, he is required to call to have permission to be off so that the Carrier can cover the vacancy or rework the schedule.

Due to problems his son was experiencing at school, Claimant's presence at the

son's school was requested on September 7 and 8. Claimant was informed of this at least four days before.

Claimant contended he attempted to call each of his Supervisors but got no response. It would be improbable but not impossible that all three of his Supervisors were away from their homes. Claimant, after getting no response, could have called in shortly before the gang's starting time on Tuesday the 7th of September.

When asked what phone numbers he had used in his attempts to reach his Supervisors, Claimant's response was vague. He claimed that the numbers had somehow been deleted from his phone.

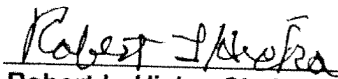
The Carrier's position is firm and fully supports the charges assessed.

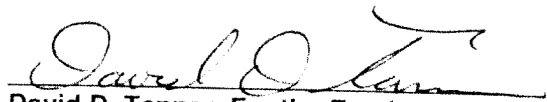
AWARD

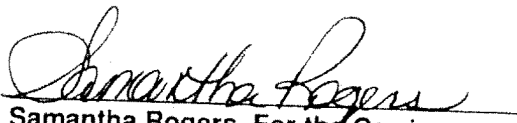
Claim denied.

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: 2/18/11