

PUBLIC LAW BOARD NO. 5850

Award No. 384

Case No. 384

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 D. R. Gobert (6432710) was issued a Level S 30-day record suspension with three years probation and disqualification of the position of machine operator by letter dated March 9, 2010 for violation of MOWOR 6.50 Movement of On-track Equipment, MOWOR 6.51 Maintaining a Safe Braking Distance, and Engineering Instruction Rule 1.1.8 Spacing of On-Track Equipment for failure to control spike puller he was operating resulting in a collision with an anchor remover machine on February 1, 2010.
2. As a consequence of the violation referred to in part 1 the Carrier shall stricken the discipline from the Claimant's record and any reference there of, and that he be shown qualified for the machine and made whole for his lost wages commencing February 12, 2010.

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 spike puller, the Claimant was running, ran into the backside of the anchor remover ahead of him. Claimant admitted he failed to abide by Rules 6.51 and Rule 1.1.8. With an admittance of a Rule(s) violation by Claimant, the burden of proof fully supports the charges.


AWARD

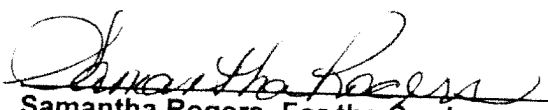
Claim denied.

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: 3/18/11