

**PUBLIC LAW BOARD NO. 5850**

**Case No. /Award No. 563**

**Carrier File No.: 14-21-0248**

**Organization File No.: 2417-SL13C5-2120**

**Claimant: K. Smith**

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**BNSF RAILWAY COMPANY** )  
**(former Burlington Northern Railroad Company)** )  
 )  
**-and-** )  
 )  
**BROTHERHOOD OF MAINTENANCE** )  
**OF WAY EMPLOYEES DIVISION- IBT** )  
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**STATEMENT OF CLAIM:**

**“We Present the following claim on behalf of Kade Smith, Emp ID 0154062, Seniority Date 03-11-2013, for the removal of the claimant’s Standard Formal Reprimand and 1 Year Review Period. In addition, we request all record of discipline be removed from the Claimant’s record. The Claimant shall be made whole as a result of the Carrier’s violation, including the following compensation(s).”**

**CARRIER POSITION:**

**Claimant Smith informed his immediate supervisor, B. Ellington, that in four days he was going to be absent on May 25. Ellington advised Claimant that his absence would be unapproved. Nonetheless, Claimant entered the designation “AA” into his payroll records, indicating the absence had been approved, as opposed to “AU” indicating the absence was unapproved. As the Carrier sees it, this volitional act warranted penalty because it was an act of dishonesty.**

**ORGANIZATION POSITION:**

At the time Claimant made his payroll entry, he had no prior open unapproved absences and no discipline on his record. Ellington testified that Claimant was not foreman of the gang and did not routinely input payroll. Claimant Smith testified that he was never instructed to input payroll until Ellington pressured him to enter eight days of pay for several employees on the gang. He asserts he must have made a keystroke error. It was Ellington's responsibility to review the payroll entries for mistakes, the Organization argues, and Ellington did not ask Claimant to make any corrections.

Claimant explained the situation: "And um on the 25th, there was uh an honest mistake that I accidentally made a keystroke error and and clicked um approved instead of unapproved. Uh it was a simple, honest mistake, and I definitely would have fixed it with no questions if I was it was brought to my attention." His next communication with management was to be advised of Investigation.

Claimant further stated: "I had no recollection of it being an unapproved until um June 7th when he handed me an investigation. And then I did ask him um and let him know that I had no idea that it was put in as absence approved and asked why he didn't give me a chance to fix it or call me."

**DECISION:**

For several reasons, we are troubled by Claimant's explanation and find that, consistent with the Carrier's determination, it does not sound reliable. Claimant describes his input as a typographical error, and characterizes it as innocent. We do not find this explanation persuasive since the letter "U" is nowhere close to the letter "A" on a computer keyboard. This obvious fact diminishes the likelihood of a simple slip of the finger.

Ellington testified to an exchange with Claimant where he explicitly told Claimant that the absence would be unapproved. Ellington's credibility has not been called into question and he has no discernible motive to fabricate such a story. Yet Claimant conveniently forgot this conversation, stating that he did not remember it. Assuming for the sake of argument that he forgot about the exchange with Ellington, then that leaves him with no basis for designating the absence as either approved or disapproved; he would have lacked enough information to make the entry at all.

Claimant stated "I had no idea that it was put in as absence approved." This statement seems to imply that he did have the conversation with Ellington, and did

know the absence was not approved. It cannot be harmonized with his assertion that he did not remember the conversation with Ellington. We find the Carrier's finding of rule violation to be reasonable under the circumstances. The Board finds no adequate basis for granting compensation for time spent in Investigation.

**AWARD:**

**The claim is denied.**

**Dated: May 1, 2023**



**Patricia T. Bittel, Neutral Member**



**Jeffery L Fry, Labor Member**



**Logan McKenna, Carrier Member**