

PARTIES TO DISPUTE:  
(Brotherhood of Maintenance of Way Employees  
(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when on December 15, 1997, the Carrier dismissed Mr. M. L. O'Connor pursuant to the provisions of Letter of Understanding dated July 13, 1976 for being absent without proper authority for more than five (5) consecutive work days beginning October 13, 1997 through October 23, 1997.
2. As a consequence of the Carrier's violation referred to above, Claimant shall be paid for all time lost, and the discipline removed from his record.

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.

On October 23, 1997, the Carrier wrote Claimant a letter terminating his seniority and employment as provided for in a Letter of Understanding dated July 13, 1976. That letter, as amended January 1, 1984, provides for termination of employment and seniority when absent without authority on five consecutive work days without authorization.

Claimant was off October 15 through October 23, 1997. Claimant received Carrier's letter of October 23, 1997, and on November 7, 1997, requested of the Superintendent a hearing.

On November 11, 1997, the Carrier wrote establishing the hearing.

Claimant did not attend the investigation he had requested, and some protest was raised that Claimant never received the November 11, 1997, letter setting the investigation. Significantly, the envelope is marked by the post office as "declined."

The Board will not set aside the Carrier's affirmation of its termination letter of October 23, 1997. Claimant requested the investigation, and since he opted not to be in attendance, nor request

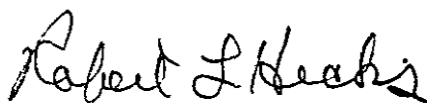
a postponement, all evidence furnished by Carrier has never been refuted.

AWARD

Claim denied.

ORDER

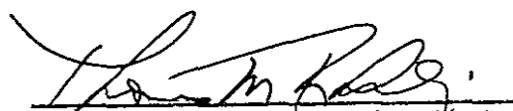
This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.



Robert L. Hicks, Chairman & Neutral Member



Rick B. Wehrli, Labor Member



Thomas M. Rohling, Carrier Member

Dated: June 12, 1998