

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE:

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Central, Machine Operator J. Kinlicheenie from service was unjust.
2. That the Carrier now reinstates Claimant Kinlicheenie with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 10:00 am. May 12, 1998 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, credible evidence that proved that the Claimant violated the rules enumerated in their decision, and even if the Claimant violated the rules enumerated in the decision, removal from service is extreme and harsh discipline under the circumstances.
3. That the Carrier violated the Agreement particularly but not limited to Rule 13 and Appendix 11, because the Carrier did not introduce substantial, credible evidence that proved the Claimant violated the rules enumerated in their decision.

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 appeared at the designated location at the specified time for the investigation, but, for whatever reason, chose not to participate and in fact left the premises.

The Claimant, in most all instances, has the scheduled right to an investigation and to present whatever defense deemed best, but he also has the right not to attend.

When Claimant determined he was not going to attend, the Carrier proceeded with the investigation and presented its evidence. Since Claimant was not in attendance, the evidence presented was not contested. Thus Claimant's culpability for the charges was established. Dismissal is appropriate for the unauthorized use of company property and fraudulent time and

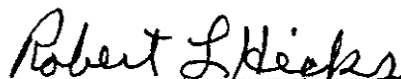
mileage claims.

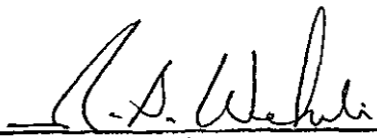
AWARD

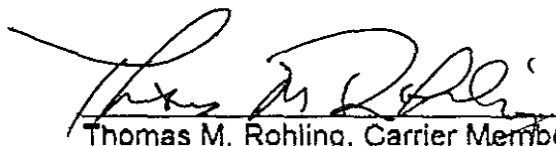
Claim denied.

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. Wehri, Labor Member

  
Thomas M. Rohling, Carrier Member

Dated: Aug 11, 1998