

PUBLIC LAW BOARD NO 5850

Award No.
Case No. 8

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

STATEMENT OF CLAIM:

Carrier's decision to dismiss Southern Region Maintenance of Way employee S. C. Organ, effective December 22, 1995 was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from December 22, 1995. (02-20-AB/130-13A1-9536)

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 was absent without authority on five consecutive work days.

Appendix 11 of the current Agreement reads as follows:

"LETTER OF UNDERSTANDING DATED JULY 13, 1976

In connection with the application of (Rule 13) of the current Agreement, this will confirm our understanding reached in conference today that, effective October 1, 1976, to terminate the employment of an employee who is absent from duty without authority, the Company shall address, by Registered or Certified Mail, return receipt requested, with copy to the General Chairman, notifying him that his seniority and employment have been terminated due to his being absent without proper authority and that he may, within 20 days of the date of such notice, if he so desires, request that he be given an investigation under (Rule 13) the current Agreement.

NOTE: Effective January 1, 1984, the above understanding is to be applied only in cases where the employee is absent from duty without authority more

than five (5) consecutive work days."

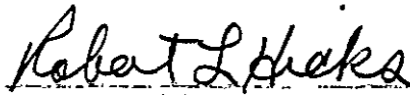
Claimant timely exercised his right to an Investigation. and during that Investigation. Claimant admitted he did not have authority to be absent. Under the circumstances of the admitted violation. and coupled with the duly negotiated Appendix. this Board will not disturb the termination.

AWARD

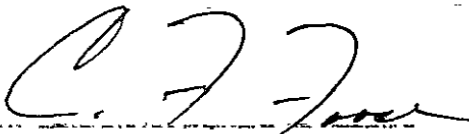
Claim denied.

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 and Neutral Member



C. F. Foose
Labor Member



Greg Griffin
Carrier Member

Dated