

PUBLIC LAW BOARD NO 6103

Award No.  
Case No. 15

PARTIES TO DISPUTE:  
(Brotherhood of Maintenance of Way Employees  
(Burlington Northern Santa Fe Railway (former St. Louis-  
(San Francisco Railway Company)

STATEMENT OF CLAIM:

1. The Carrier violated the current Agreement when the name of Sheila D. White was removed from the seniority rosters when she allegedly failed to return from a leave of absence and failed to request and receive an extension to her leave of absence.
2. As a consequence of the Carrier's violation referred to above, Claimant shall be returned to service, the discipline shall be removed from the Claimant's personal record, and he shall be compensated for all wages lost in accordance with the Agreement.

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 had been granted a leave of absence that expired on September 30, 1998. On December 4, 1998, Carrier wrote Claimant advising that since she had failed to return to service on or before the expiration of her leave of absence, that pursuant to Rule 87 she had forfeited her seniority.

Shortly after the December 4, 1998, letter, the Organization wrote the Carrier seeking an extension to Claimant's leave (which was supported by a statement from Claimant's doctor). The Organization then requested an unjust treatment hearing which was finally held on February 11, 1999. On February 22, 1999, Carrier reaffirmed its position, following the investigation.

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On April 7, 1999, the Organization filed a claim seeking reinstatement of Claimant's seniority and pay for all time lost. Carrier never responded and on July 9, 1999, the Organization appealed to Carrier's highest officer to handle claims and grievances seeking reinstatement and pay for all time lost based on procedural grounds as well as lack of merit.

The Carrier in its letter of response of August 27, 1999, offered no response to the procedural Argument, expending its energy to supporting its decision in advising Claimant that she had forfeited her seniority by failing to secure an extension to her leave on or before September 30, 1998.

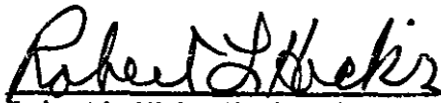
Because of the procedural error, Claimant's seniority will be reinstated, but there will be no pay for time lost as the latest records available have convinced this Board that Claimant was not physically able to resume the duties for which she had been employed.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.

  
Robert L. Hicks, Neutral Member & Chairman  
Public Law Board 6103

Dated: July 31, 2000