

**PUBLIC LAW BOARD NO. 6284**

**PARTIES TO THE DISPUTE:**

Brotherhood of Locomotive Engineers

-and-

Burlington Northern Santa Fe Railroad

AWARD NO. 25  
CASE NO. 25

**STATEMENT OF CLAIM:**

That Engineer G.D. Billie's discipline be reversed, that he be reinstated and made whole for any and all time lost, that the notation on his personal record as a result of this incident be removed.

**FINDINGS:**

This Public Law Board No. 6284 finds that the parties herein are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated January 10, 2000 the Claimant, Engineer Gary D. Billie was notified by the Carrier of his dismissal from service as follows:

This letter will confirm that as a result of formal investigation on December 14, 1999 (which was completed on January 3, 2000) you are dismissed from employment for violation of Parts 7.6 and 7/9 of the Burlington Northern Santa Fe Policy on the Use of Alcohol and Drugs, and Rules 1.6 and 1.13 of the General Code of Operating Rules.

Arrange to return all company property such as radio and lantern, and any Amtrak transportation passes in your possession. A check will be issued for any moneys due you.

In assessing discipline consideration was given to your personal record.

This letter will be placed in your personal file. Your signing below serves as receipt of this dismissal.

s/C.E. Keeler  
Superintendent Operations

The Organization appealed the discipline, and the matter has been properly progressed to this board for adjudication.

No basis exists to set aside the discipline on the procedural assertions of the Organization. Engineer Billie did not take the drug test ordered for him at 10:55 AM on the morning of November 23, 1999 and it is clear that he was in violation of the rules as set forth in the January 19, 2000 letter of dismissal. The evidence also sets forth Mr. Billie's view that he had formed the misconception in his communication with his EAP coordinator following a positive drug-alcohol test in March of 1998 that he was responsible for a maximum of six follow-up tests, rather than the minimum six tests which was actually required, and when he found out the November 23, 1999 test was a "follow-up" test, he felt he was being harassed and refused to take this test because he had completed the requisite six tests. Later that day when the General Chairman was put in contact with the Claimant and his error fully explained to him, Mr. Billie states he went to Quest Dynamics for testing at 4:50 PM, which testing was negative.

Recognizing the seriousness of Engineer Billie's violation of Rules, and considering the quality and length of his service as a locomotive engineer going back to 1970, we believe that the discipline should be modified. He shall be returned to service with all rights unimpaired but without backpay, with his reinstatement contingent upon his being evaluated by the EAP and his successful completion of the EAP program devised for him, including full compliance with all instructions issued by his EAP counselor. Should Mr. Billie fail to comply with all EAP instructions and successfully complete any EAP program, the conditional reinstatement shall be converted to a permanent dismissal. Jurisdiction is maintained for one year after the date of this award to resolve any issue concerning this conditional reinstatement.

#### AWARD

As per Findings.

ORDER: The Carrier is required to comply with this award within thirty days.

  
Chairman and Neutral Member

  
Organization Member

  
Carrier Member

Dated: 11-30-01