

**NATIONAL MEDIATION BOARD  
PUBLIC LAW BOARD NO. 7048  
AWARD NO. 194, (Case No. 194)**

**BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYES DIVISION – IBT RAIL CONFERENCE**

**vs**

**BNSF RAILWAY COMPANY**

William R. Miller, Chairman & Neutral Member  
Samantha Rogers, Carrier Member  
David R. Scoville, Employee Member

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- 1. The Carrier violated the Agreement commencing April 16, 2015, when Claimant, Raymond L. Mims (1767755), was dismissed on June 8, 2015 for being absent without proper authority for more than five days beginning March 26, 2015 and continuing forward. The Carrier alleged violation of Maintenance of Way Operating Rule (MWOR) 1.15 Duty Reporting or Absence.**
- 2. As a consequence of the violation referred to in part 1 the Carrier shall remove from the Claimant’s record this dismissal and he be reinstated, with seniority, vacation, all rights unimpaired and pay for all wage loss including overtime commencing April 16, 2015, continuing forward and/or otherwise made whole.”**

**(Carrier File No. 14-15-0253) (Organization File No. 90-SF13A1-159)**

**FINDINGS:**

Public Law Board No. 7048, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within all the meaning of the Railway Labor Act, as amended; and that the Board has jurisdiction over the dispute herein; and that the parties to the dispute have participated in accordance to the Agreement that established the Board.

The facts indicate that the Claimant was assigned as a Trackman, Mobile Gang TP11, on the Texas Division and it was alleged that the Claimant was absent without proper authority for more than five days beginning March 26, 2015, and continuing forward. On April 16, 2015, the

Claimant was issued an AWOL Dismissal Letter, per Appendix 11 of the ATSF Agreement which stated in pertinent part:

**"This is to advise you, effective this date your seniority and employment with the BNSF Railway is hereby terminated pursuant to the provisions of Letter of Understanding dated July 13, 1976, for your being absent without proper authority for more than five (5) days beginning March 26, 2015 and continuing forward.**

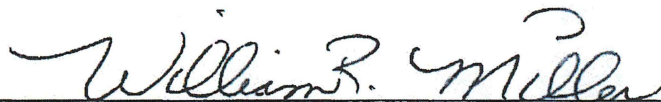
**You are in violation of MWOR 1.15 Duty Reporting or Absence...."**

The Claimant then requested an Investigation in accordance with the Agreement that was held on May 13, 2015. Subsequently, on June 8, 2015, Claimant was notified that his dismissal of April 16, 2015, had been upheld and he remained dismissed.

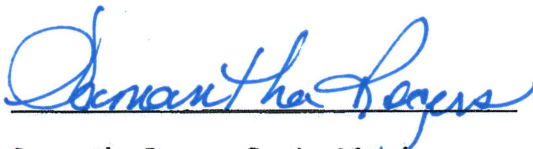
The Board notes that the instant case is a companion case to Award No. 193, Case No. 193 and Award No. 195, Case No. 195. This is the second of three cases that involve the same Claimant all of which are dismissal cases. The skillful arguments of the respective parties need not be reiterated in this instance as the question of Claimant's alleged guilt has become academic because in Award No. 193 this Board found the Carrier's decision to dismiss Claimant was appropriate. Therefore, the Board finds and holds that the dismissal in Award No. 193 cannot be overridden and the issue raised in the instant case is now moot, thus the claim is dismissed. However, we would add that a review of the transcript and record substantiated that Claimant was in violation of MWOR 1.15 and was guilty as charged.

**AWARD**

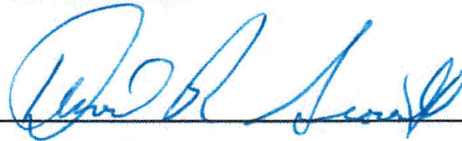
Claim dismissed.



William R. Miller, Chairman & Neutral Member



Samantha Rogers, Carrier Member



David R. Scoville, Employee Member

Award Date: \_\_\_\_\_

7/21/17