

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 7048
AWARD NO. 343, (Case No. 343)**

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

vs

BNSF RAILWAY COMPANY

William R. Miller, Chairman & Neutral Member
Michelle McBride, Carrier Member
Louis R. Below, Employee Member

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- 1. The Carrier violated the Agreement commencing May 11, 2020, when Claimant Kevin D. Staggs (1079508) was dismissed for dishonesty when communicating with his Foreman regarding Claimant’s absence on February 18, 2020, and failure to comply with instructions by not notifying his Foreman and Roadmaster of his absence in violation of MWOR 1.6 and MWOR 1.13.**
- 2. As a consequence of the violation referred to in part 1 the Carrier shall remove this discipline with all rights unimpaired and pay for all wage loss including overtime (if applicable) commencing May 11, 2020, continuing forward and/or otherwise made whole.**
- 3. This claim was discussed in conference between the parties.”
(Carrier File No. 14-20-0162) (Organization File No. 2600-SL13C5-212)**

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 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 Claimant may have been dishonest when advising his Foreman why he was absent on February 18, 2020, and may have failed to notify both his Foreman and Roadmaster of his absence and because of that Claimant was directed to attend a formal

Investigation on March 3, 2020, which was mutually postponed until April 30, 2020, concerning in pertinent part the following:

"...for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged dishonesty when communicating with foreman regarding the reason for your absence on February 18, 2020 and failure to comply with instructions by not notifying your foreman and roadmaster of your absence.

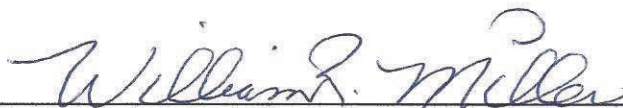
This investigation will determine possible violation of MWOR 1.6 Conduct and MWOR 1.13 Reporting and Complying with Instructions."

On May 11, 2020, Claimant was notified that he had been found guilty as charged and was dismissed effective immediately.

This is the fifth in a series of five discipline cases and the third of three dismissal cases before the Board involving the same Claimant. 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. 341 this Board found that Carrier's decision to dismiss Claimant was appropriate. Therefore, the Board finds and holds that the dismissal in Award No. 341 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 reveals the Carrier met its burden of proof that Claimant was guilty as charged.

AWARD

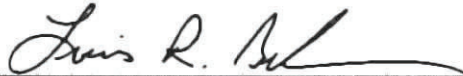
Claim dismissed.



William R. Miller, Chairman & Neutral Member



Michelle McBride, Carrier Member



Louis R. Below, Employee Member

Award Date: July 2, 2021