

**PUBLIC LAW BOARD NO. 7585**

**Case No. /Award No. 56**  
**Carrier File No.: 10-15-0270**  
**Organization File No.: C-15-D070-8**  
**NMB 119**  
**Claimant: C. Mader**

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<b>BNSF RAILWAY COMPANY</b>	)
<b>(former Burlington Northern Railroad Company)</b>	)
	)
<b>-and-</b>	)
	)
<b>BROTHERHOOD OF MAINTENANCE</b>	)
<b>OF WAY EMPLOYEES DIVISION - IBT</b>	)

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**FACTS:**

Claimant was a machine operator on a production gang. He was dismissed on April 30, 2015 for failure to report for duty. At the time he was under a record suspension.

**CARRIER POSITION:**

When Claimant did not show for work at the start of his 7 am shift on January 2, 2008, his foreman tried to call him without success. At 9:30 Claimant called in saying he had overslept and would just stay home. He subsequently asserted that he tried to come in but crashed his car. He did not request a medical leave of absence, but did provide a doctor's note letting him off work until February 27.

Claimant admitted he did not report and did not have permission to be off. He acknowledged this was a violation of Rule 1.15. Supervisor of Structures Terry Lake could not have approved a medical leave because Lake does not have the requisite authority.

Lake testified that Claimant's brother called and asked to submit a medical form. He said he received a doctor's note and submitted it to Human Resources. According to Lake, medical leave is granted through the medical department.

**ORGANIZATION POSITION:**

Claimant asserted he was not getting any sleep because he was constantly thinking about work. "My mind was just going and going and going, never gave me a chance to relax, take a break." TR 20 He claimed on the day in question he tried to go to work, totaled his car and ended up at his parent's house seeking help. He said he could not remember anything else. Claimant admitted no request was made for medical leave of absence.

**DECISION:**

The evidence is uncontroverted that Claimant did not call in until 9:30, two and a half hours after his shift began. During that call he indicated he would be staying home. Claimant did not report that day. Though his car wreck is certainly unfortunate, his status at no time changed from being off for the day. The visit with the doctor and the doctor's release from work came after the offense of failing to timely report for work and did not change Claimant's status. The fact that he had a medical reason to be off from work after his initial no show only establishes that he became unable to come in to work later in his shift. However, at that point, he had been unavailable for at least two and a half hours and had advised his employer that he was not coming to work. His accident and resulting medical slip did not alter his initial violation.

**AWARD:**

The claim is denied.

November 29, 2017; Park City, Utah

A handwritten signature in cursive script, reading "Patricia T. Bittel".

Patricia T. Bittel, Neutral Member

A handwritten signature in black ink, appearing to read 'Zach Voegel'.

Zachary Voegel, Organization Member

A handwritten signature in blue ink, appearing to read 'Zahn Reuther'.

Zahn Reuther, BNSF Member