

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 6302

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

UNION PACIFIC RAILROAD COMPANY

)

) Case No. 59

)

) Award No. 59

)

Martin H. Malin, Chairman & Neutral Member

D. D. Bartholomay, Employee Member

D. A. Ring, Carrier Member

Hearing Date: March 23, 2004

STATEMENT OF CLAIM:

1. The dismissal (seniority termination) of Mr. John A Blaine for allegedly being absent from his assignment without proper authority commencing September 23, 2002 was without just and sufficient cause (System File J-0348-56/1360620-D).
2. Mr. John A Blaine shall now be reinstated to service with seniority and all other rights unimpaired and compensated for all wage loss suffered commencing March 14, 2003.

FINDINGS:

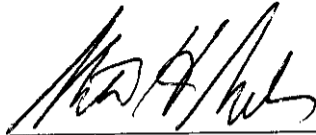
Public Law Board No. 6302, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

Claimant's seniority was terminated pursuant to Rule 48(k). There is no question that Claimant was absent without authority for a very lengthy period of time. Although there were allegations that Claimant attempted to report his need for emergency surgery to his supervisor by telephone and that the supervisor hung up the telephone, Rule 25 required Claimant to request and obtain a medical leave of absence in writing because the leave was to be longer than fifteen days. In the absence of a proper leave of absence, Rule 48(k)'s termination of seniority was self-invoking.

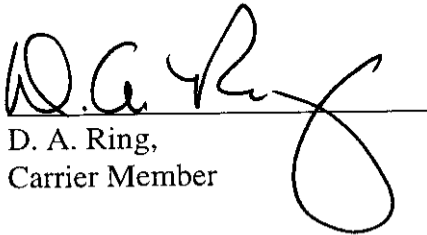
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AWARD

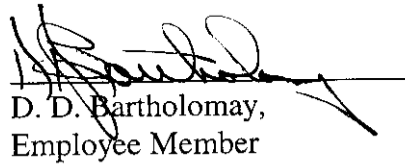
Claim denied.



Martin H. Malin, Chairman



D. A. Ring,
Carrier Member



D. D. Bartholomay,
Employee Member

Dated at Chicago, Illinois, July 23, 2004