

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 6302

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

UNION PACIFIC RAILROAD COMPANY

)
) Case No. 62
)
) Award No. 60
)

Martin H. Malin, Chairman & Neutral Member
D. D. Bartholomay, Employee Member
D. A. Ring, Carrier Member

Hearing Date: March 22, 2004

STATEMENT OF CLAIM:

1. The dismissal (seniority termination) of Trackman R. S. Roman for alleged unauthorized absence for five working days on August 19, 20, 21, 22 and 26, 2002 was without just and sufficient cause and in violation of the Agreement (System File C-0248-106/1355767).
2. Trackman R. S. Roman shall now be reinstated to service with vacation rights and all other rights unimpaired and compensated for all wage loss suffered commencing November 20, 2002, and continuing.

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). Rule 48(k) provides:

Employees absenting themselves from their assignments for five (5) consecutive working days without proper authority will be considered as voluntarily forfeiting their seniority rights and employment relationship, unless justifiable reason is shown as to why proper authority was not obtained.

.....

Employees who voluntarily forfeit their seniority rights and employment relationship pursuant to this section and who desire to furnish a reason why proper authority was not

obtained, may request a conference with the Carrier Officer involved. . . .

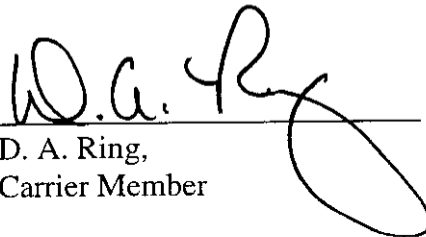
On September 2, 2002, the Organization requested a conference concerning Claimant's forfeiture of his seniority. The record reflects that Carrier attempted to schedule the conference but when Carrier telephoned the phone number on record for Claimant, the person answering the phone disclaimed any knowledge of Claimant or his whereabouts. The record further reflects that Carrier advised the Organization and that Carrier was unable to locate Claimant at either of two phone numbers supplied by the Organization. The record thus establishes that Carrier made a good faith effort to schedule the conference but was unable to locate Claimant (and it appears that the Organization also was unable to locate Claimant). Under these circumstances, the claim must be denied.

AWARD

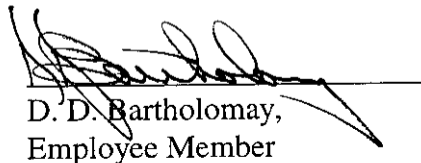
Claim denied.



Martin H. Malin, Chairman



D. A. Ring,
Carrier Member



D. D. Bartholomay,
Employee Member

Dated at Chicago, Illinois, July 23, 2004