

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6516
CASE # 18 AWARD # 18
Don A. Hampton, Chairman & Neutral Member**

PARTIES TO DISPUTE

Brotherhood of Railroad Signalmen

And

Burlington Northern & Santa Fe Railway

STATEMENT OF CLAIM (verbatim)

“Carrier violated the Signalmen’s Agreement particularly Rule 54, when it wrongfully and inappropriately dismissed Mr. Riemath from service on October 10, 2003. Mr. Riemath was denied the right to a fair and impartial investigation on September 16, 2003 and as a result was fired although the Carrier failed to provide burden of proof to warrant his dismissal.

Carrier should now be required to reinstate Mr. Riemath immediately and compensate him for all lost wages, including skill pay with all rights and benefits unimpaired and clear his personal record of this incident.”

FINDINGS

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In a letter dated September 10, 2003 the Claimant was instructed to attend an investigation "...at 1000 hours on Tuesday September 16, 2003 for the purpose of ascertaining the facts and determining your responsibility, if any, for absenting yourself from duty without proper authority on September 8, 2003 for falsification of the Clerget Farms Road, Sumner, WA. Crossing on or before September 8, 2003 and the failure to inspect crossings at Clerget Farms Road, Zhender Street, Main Street, and Maple Street in Sumner, Washington as per Signal Test Instructions, while you were assigned as Signal Maintainer on the Auburn South Territory."

Subsequent to the investigation the Claimant was notified by letter dated October 10, 2003 that he was dismissed from the service of the Carrier Service for falsification of forms and failure to inspect crossings.

A review of the record regarding this claim most certainly supports disciplining the Claimant for these serious violations. We are persuaded however that the Claimant should be afforded another opportunity to become a valued employee of the Carrier.

We are therefore reinstating the Claimant to the Carrier's Service. The reinstatement will be without pay and the

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Claimant will be restricted to a position where he will be working under the supervision of a Foreman.

AWARD

Claim sustained in accordance with the findings.

ORDER

The Claimant will be returned to a position, as restricted, and without pay as specified in the findings within thirty (30) days.

Don A. Hampton

Don A. Hampton, Chairman & Neutral Member

Charlie McGraw/SS

Charlie A. McGraw
Organization Member

Ronald O. Naylor

Ronald O. Naylor
Carrier Member

DATED: May 9, 2005