

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD 6516
CASE # 19 AWARD # 19
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 Mr. Kimberling was denied a fair and impartial investigation and the Carrier issued excessive discipline on March 2, 2004 resulting in his dismissal from employment.

Carrier should now be required to reinstate Mr. Kimberling 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

In a letter dated February 5, 2004 the Claimant was instructed “...to report to the BNSF Conference Room,

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4515 Kansas Avenue, Kansas City, Kansas, at 10:00 CT, February 14, 2004, with your representative and/or witness(es), if desired, for a formal investigation to ascertaining the facts and determining your responsibility, if any, in connection with possible violation of Signal Instructions TP-103, TP-104, TP-382, and alleged falsification and completion of Signal Form 401, between September 2003 and December 2003, as discovered during audit of your switch reports on February 5, 2004.”

Subsequent to the investigation the Claimant was notified by letter dated March 2, 2004 that he was dismissed from the service of the Carrier for violations substantiated during the formal investigation.

A review of the voluminous record regarding this claim supports the Carrier's Actions and the Carrier has more than met their burden of proof. With the evidence at hand and the Claimant's past record the penalty is appropriate and the claim must be denied.

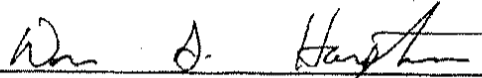
AWARD

Claim denied in accordance with the findings.

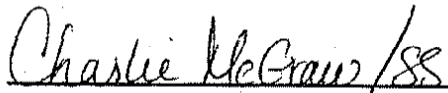
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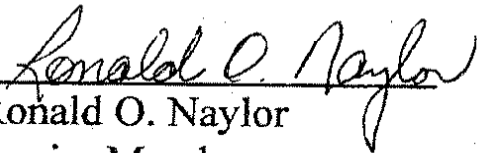
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Don A. Hampton, Chairman & Neutral Member



Charlie A. McGraw
Organization Member



Ronald O. Naylor
Carrier Member

DATED: May 9, 2005