

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6516
CASE # 20 AWARD # 20
Don A. Hampton, Chairman and 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 disciplined Mr. Nunez on November 5, 2003. Mr. Nunez was denied a fair and impartial investigation on October 24, 2003 and as a result was issued excessive and unwarranted discipline.

Carrier should now be required to compensate Mr. Nunez 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 October 13, 2003 the Claimant was

Public Law Board No. 6516

Case # 20 Award # 20

Page 2

Instructed to "Attend formal investigation to be held in the General Manager's office conference room #3, third floor, 4515 Kansas Avenue, Kansas City, Kansas, at 1000 hours, Friday, October 24, 2003, for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged repeated violation of Rule 1.15 of the Maintenance of Way Operating Rules, in effect January 31, 1999, as revised on October 10, 2003."

The Claimant was notified by letter dated November 5, 2003"...that as a result of formal investigation held on October 24, 2003, concerning your admitted violation of BNSF Maintenance of Way Operating Rule 1.15 at 0700 hours on October 10, 2003, at the BNSF Kansas City Region Operations Center and in consideration of your repeated violation of Maintenance of Way Operating Rule 1.15 on the following dates: October 19, 2002, April 18, 2003, July 10, 2003 and August 6, 2003, you are issued a suspension of 30 days for violation of Rule 1.15 of the Maintenance of Way Operating Rules in effect January 31, 1999, as revised. Additionally, you have been assigned a probation period of one year which will begin December 10, 2003."

We have reviewed the entire file regarding this claim and there is no support for the contention that the Claimant was

Public Law Board No. 6516

Case # 20 Award # 20

Page 3

denied a fair and impartial investigation. The facts are clear, the Claimant has habitually reported for duty late. The record reflects that the Claimant has been less than a stellar employee in the past and the discipline was appropriated and will not be set aside. The Claimant must realize that if his tardiness does not improve his employment is in jeopardy.

AWARD

Claim denied.

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