

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD No 6516
CASE # 21 AWARD # 21
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. Wells from service on June 1, 2004. Mr. Wells was denied the right to a fair and investigation on May 17, 2004 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. Wells immediately and compensate him for 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 May 11, 2004 Claimant was “...ordered to

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attend an investigation in the conference room of the BNSF Amarillo office located at 320 South Polk Street Suite 500 Amarillo, Texas. This investigation is scheduled for 10:00 Monday, May 17, 2004 to ascertain the facts and determine your responsibility if any, in connection with your alleged failure to comply with Maintenance of Way rule 1.6 Conduct and Maintenance of Way rule 1.13 Failure to comply with instructions.”

Subsequent to the investigation the Claimant was notified by letter dated June 1, 2004 that he was “...dismissed for Violation of MWOR Rule 1.6 when you lied to the HR representatives and your Foreman and MWOR rule 1.13 failure to comply with instructions while employed as Assistant Signalman.”

Initially we would note the Organization challenges the adequacy of the Carrier's Notice of Investigation. While the Notice may have been somewhat lacking the file reveals that the Claimant was well aware of why the Investigation was being conducted. The Organization also contends that the Claimant did not receive a fair investigation. The record however reflects otherwise.

The Carrier has substantiated the Claimant's guilt; therefore we will not alter nor set aside the discipline.

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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