

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6516
CASE # 23 AWARD # 23
DON A. HAMPTON, CHAIRMAN AND NEUTRAL MEMBER**

PARTIES TO DISPUTE

Brotherhood of Railroad Signalman

And

Burlington Northern Santa Fe Railway Company

STATEMENT OF CLAIM (verbatim)

“(a) Carrier violated the current Signalman’s Agreement particularly Rule 54, when it wrongfully and inappropriately dismissed Mr. Collins II from service August 31, 2004. Mr. Collins II was denied the right to a fair and impartial investigation on August 6, 2004 and as a result was fired although the Carrier failed to provide burden of proof to warrant his dismissal.”

“(b) Carrier should now be required to reinstate Mr. Collins II 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 July 23, 2004 the Claimant was instructed to attend an investigation on February 23, 2003“...in the Burlington Northern Santa Fe Signal Department’s Conference Room, 4200 Deen Road, Ft. Worth Texas at 1000 hours, July 30, 2004 for the purpose of ascertaining the facts and determining your

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Responsibility, if any, in your alleged violation of Rule 12.1.1 of the Maintenance of Way Safety Rules, effective January 31, 1999 as amended and supplemented and Engineering Instructions 15.15 of the Engineering Instructions Manual, Revision May 15, 2003 as amended and supplemented pertaining to the company vehicle rollover accident you were involved in on July 16, 2004 on Interstate 35E near the Ovilla Exit in Glenn Height, Tx."The investigation was rescheduled and subsequently a Formal Investigation was held on August 6, 2004.

The Claimant was notified by letter dated August 31, 2004 that as a result of the investigation that he was permanently dismissed from the service of the Burlington Northern Santa Fe Railroad.

The Board has reviewed the entire file in regards to this claim. While any accident involving a carrier vehicle is most serious the facts of this case simply do not justify the penalty of dismissal. The Claimant's discharge will be reduced to a one hundred and eighty (180) day suspension.

AWARD

Claim sustained in accordance with the findings.

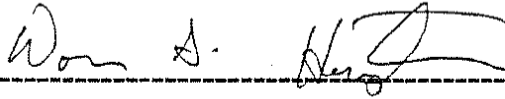
ORDER

The Claimant will be, within thirty (30) days returned to his previous position and paid for all time lost in excess of one hundred and eighty (180) days.

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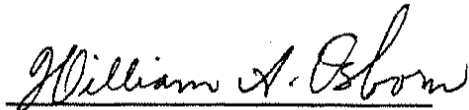
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Don A. Hampton, Chairman & Neutral Member



Charlie A. McGraw
Organization Member



William A. Osborn
Carrier Member

DATED: October 13, 2005