

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6986
AWARD # 3 CASE # 3**

PARTIES TO DISPUTE

Brotherhood of Maintenance of Way Employees

And

BNSF Railway Company

STATEMENT OF CLAIM

Case # 3

.Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement on November 21, 2005, when Claimant Jackie D. Couey was dismissed for violation of Maintenance of Way Operating Rule 1.6 – Conduct.
2. As a consequence of the Carrier's violation referred to in part (1) above, the Carrier shall return the Claimant to service, paid for all time lost, and that all references to this incident shall be removed from Claimant's personal record.

Carrier file No. 12-06-0032

Organization File No. B-2875-2

FINDINGS

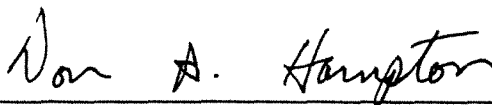
A review of the transcript of the Investigation held on November 11, 2005 notes that the Claimant was notified to attend the Investigation to determine the Claimant's responsibility, if any in connection with allegedly misusing several different BNSF vehicle fuel cards to put fuel in private vehicles and

in some instances using Employee ID numbers of other BNSF employees while committing these violations.

The Board has reviewed the entire file in regards to this claim and it is evident that the Carrier has met their burden of proof. The Claimant prior to the Investigation had signed a confession indicating his guilt in this matter. While the Union vigorously argues that the Claimant's confession was coerced the file simply does not provide adequate support of the Union's contention.

AWARD

Claim denied in accordance with the findings.



Don A. Hampton, Chairman & Neutral Member



**R.C. Sandlin
Organization Member**



**Samantha Rogers
Carrier Member**

DATED:

17 Sep 31, 2007

MAY 21 2007

LABOR MEMBERS DISSENT
TO PUBLIC LAW BOARD No. 6986 AWARD #3, CASE # 3
Referee Don A. Hampton

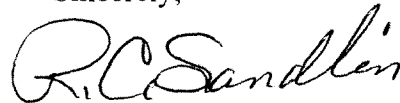
FT. WORTH, TX

Considering the complete and total lack of evidence to sustain the carrier's dismissal of a long term employee, we must dissent to Neutral Member Don Hampton's decision in Award #3, Case # 3.

It can be drawn from this decision that instead of even a shred of evidence, an anonymous tip and a coerced confession is all that is needed to end an employee's career. There was not any collaborating evidence presented in this case. After filing this appeal for reinstatement the carrier brought charges in the District Court, where it was dismissed as the carrier's evidence was judged hearsay and was not admissible. But it was enough to sway the Board?

We dissent.

Sincerely,

A handwritten signature in cursive script, appearing to read "R.C. Sandlin".

R.C. Sandlin
Labor Member

RCS/eb
cc: J.D. Couey