

**PUBLIC LAW BOARD NO. 7035
CASE NO. 5**

PARTIES TO THE DISPUTE: (Brotherhood of Maintenance of Way Employes
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(and
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(National Railroad Passenger Corporation
(AMTRAK

STATEMENT OF CLAIM:

- (1) Carrier's dismissal of Claimant Eugene Wilsey was without just and sufficient cause, was not based on any clear and probative evidence and was done in an arbitrary and capricious manner, wholly beyond the Scope of the Scheduled Agreement.
- (2) Claimant Wilsey shall be reinstated to his position with the Company with his seniority unimpaired and be compensated for all lost wages and benefits which would accrue to him provided for in the Scheduled Agreement and his record cleared of the charge.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement; this Board has jurisdiction over the dispute involved herein; and that the parties were given due notice of the Hearing held.

The discipline of Termination of Claimant Eugene Wilsey is modified. The Carrier is directed to restore Claimant to service without compensation lost on a last and final chance basis. Any further incidents regarding absenteeism which occur following the date of this Award will result in the Claimant's dismissal from service.

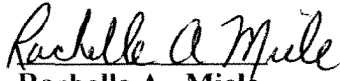
Claim sustained in accordance with the Findings.

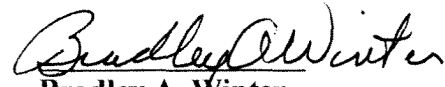
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**Steven
Bierig**

Digitally signed by Steven Bierig
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Date: 2010.03.02 08:46:22 -06'00'

Steven M. Bierig
Chairperson and Neutral Member


Rachelle A. Miele
Carrier Member


Bradley A. Winter
Organization Member

Dated at Chicago, Illinois this 2nd day of March 2010.