

PUBLIC LAW BOARD NO. 4901

AWARD NO. 201
CASE NO. 201

PARTIES TO
THE DISPUTE:

United Transportation Union

vs.

The Burlington Northern Santa Fe Railway Company
(Coast Lines)

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim denied.

STATEMENT OF CLAIM:

"Request in behalf of Northern California Division Switchman D. S. Lindsay for the reinstatement to the service of the Burlington Northern and Santa Fe Railway Company, Coast Lines, with seniority and all other rights unimpaired, but on a leniency basis, as a result of the Formal Investigation conducted on April 6, 2001."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

Claimant was dismissed for unauthorized absence and for failing to comply with instructions to return to service. At the time of his dismissal, Claimant had over four years of service. His work record revealed several instances of discipline for matters related to attendance and absence from work.

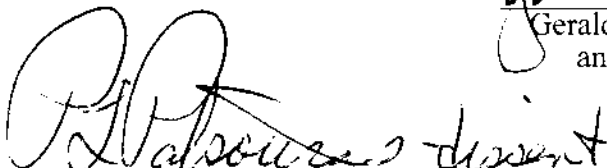
It is undisputed that Claimant falsely claimed family emergency to initially obtain time off from work. Thereafter, he ignored the Carrier's efforts to contact him and failed to comply with instructions necessary to retain his employment. Claimant also admits breaking a verbal agreement to resign that he made with his supervisor to avoid the disciplinary process.


Under the circumstances, we do not find the Carrier acted unreasonably in rejecting Claimant's appeal for reinstatement on a leniency basis. Nothing in the record persuades us to disturb that decision.

AWARD:

The Claim is denied.


Gerald E. Wallin, Chairman
and Neutral Member


P. L. Patsouras,
Organization Member


Gene L. Shire,
Carrier Member

DATE: Sept. 5, 2003