

**PUBLIC LAW BOARD NO. 4901**

AWARD NO. 198

CASE NO. 198

**PARTIES TO  
THE DISPUTE:**

United Transportation Union

vs.

The Burlington Northern Santa Fe Railway Company  
(Coast Lines)

**ARBITRATOR:** Gerald E. Wallin

**DECISIONS:** Claim denied

**EMPLOYEES' STATEMENT OF CLAIM:**

"Request in behalf of Northern California Division Yardman J. L. Manley for the removal of the violations of Rules 1.6, 1.15, of the General Code of Operating Rules, Fourth Edition, in effect April 2, 2000, and Northern California Superintendent's Notice No. 120, items 1 and 4 in effect May 19, 1999, from the Claimant's personal record and for his reinstatement to the service of the Burlington Northern and Santa Fe Railway Company, Coast Lines, with seniority and all other rights unimpaired and with pay for all time lost including payment of Health and Welfare Benefits beginning on September 14, 2000, and continuing until returned to service as a result of the Formal Investigation conducted on September 14, 2000."

**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 violating Carrier's rules relating to returning to duty after a leave of absence. At the time of his discharge, Claimant had nearly five years of service with the Carrier. Although he had proper notice of it, Claimant did not attend the investigation.

Our review of the record reveals no procedural shortcomings of significance. Carrier timely held the investigation in accordance with Rule 24(a). In this regard, it must be recognized that each day Claimant failed to mark up for duty after his leave of absence expired was a new occurrence subject to Carrier's rules. Thus, the Carrier could hold the investigation within thirty days of any of those occurrences. Carrier did. In addition, the record does not establish a proper basis, consistent with the factors expressed in the Agreement, for requesting a postponement of the investigation. Thus, it was not error for the Carrier to conduct the investigation as specified in the notice.

The record establishes that Claimant failed to report for duty for more than one year after the expiration of a two-month leave of absence. Indeed, he never returned to Carrier's service after February of 1999 despite three written directives from Carrier to do so.

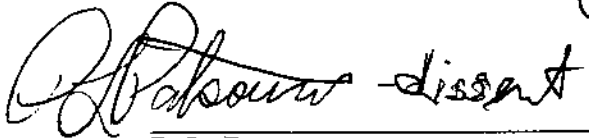
Carrier's action is found to be supported by substantial evidence in the record. Therefore, we

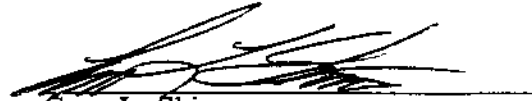
see no proper basis to disturb it.

AWARD:

The Claim is denied.

  
Gerald E. Wallin, Chairman  
and Neutral Member

  
P. L. Patsouras,  
Organization Member

  
Gene L. Shire,  
Carrier Member

DATE: March 25, 2003