

PUBLIC LAW BOARD NO 7026

AWARD NO. 18
CASE NO. 18

PARTIES TO
THE DISPUTE

UNITED TRANSPORTATION UNION
(COAST LINES)

VS.

BNS RAILWAY COMPANY

ARBITRATOR: John L. Easley

DECISION: Claim Denied

DATE: July 7, 2008

STATEMENT OF CLAIM:

Claim of Southern California Division Conductor K. B. Scaccia, for removal of Level S, 30 day record suspension from his personal record and pay for any time lost involved in this incident.

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 the agreement of the parties, that the Board had jurisdiction over the dispute, and that the parties were given due notice of the hearing.

Under date of May 22, 2006, Conductor K. B. Scaccia, hereinafter referred to as the Claimant, was advised to attend a formal investigation as follows in pertinent part:

"You are hereby notified to attend formal investigation in the Trainmaster's Office, at 834 Front Street, Needles, California, at 1100 hours on June 14, 2006, for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged failure to contact your immediate supervisor within 24 hours of being approved to mark off FEM 2331 051606; in possible violation of Rules 1.3.3 and 1.13 of the General Code of Operating Rules Fifth Edition in effect April 3, 2005; and California General Notice 70."

On May 16, 2006, the Claimant was regularly assigned to and marked up on a Needles Barstow pool job, at 11:30 P. M. he was laid off FEM (Family Emergency) by supervision in Barstow. The lay off under his circumstances was justified, however, approximately two hours later the emergency ceased to exist. He marked up and shortly thereafter and was called for a trip to Barstow.

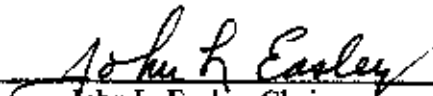
General Notice 70 Emergency Layoff Code FEM provides an employee the ability to lay

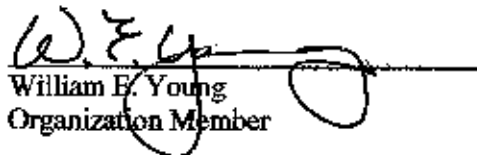
off under emergency situations involving his or her family. It also requires the employee when granted authorization to contact his or her supervisor within the next 24 hours.

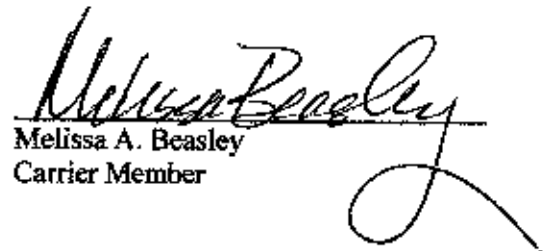
The Claimant availed himself of the layoff provision of the bulletin but failed to contact his supervisor within the 24 hours ^{as} required. On page 22 of the transcript he alludes to a phone conversation with a friend which had to be on a cell phone. Consequently, having a cell phone he had ample opportunity to fulfill the requirements of the bulletin.

The Board will not moderate the discipline.

AWARD: Claim Denied.


John L. Easley, Chairman
and Neutral Member


William E. Young
Organization Member


Melissa A. Beasley
Carrier Member