

PUBLIC LAW BOARD NO. 7425

**PARTIES) SMART - TRANSPORTATION DIVISION
TO)
DISPUTE) BNSF RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of Pacific Fifth Seniority District (Spokane, WA) Conductor C. D. Carlsson for reinstatement to service with seniority rights unimpaired, removal of censure from his personal record and pay for all time lost including but not limited to the following: payment of vacation allowance, health and welfare costs, reimbursement of all expenses related to the pursuit of alternative employment, reimbursement for any damages incurred as the result of discharge from service including proceeds on any property, real estate or financial instruments sold to replace lost compensation, as a result of an investigation held on August 7, 2015. (Organization File No. D426-316-15A; Carrier File No. 50-15-0096D)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

This appeal for a reinstatement to service involves the same Claimant who was the subject of Case No. 94, Award No. 94, wherein the Board upheld the Carrier's dismissal of the Claimant from service in view of the record supporting a finding that he had failed to be available for a call to service and having an extensive prior discipline record. The instant case arose while the prior incident was being handled on the property and here involves the Claimant having a string of twenty-one (21) layoffs from work between July 1, 2015 and August 5, 2015 while assigned as a conductor at Hauser, Idaho.

The Claimant failed to appear for the scheduled hearing and it was held in absentia following a search of the building at which the hearing was held not locating the Claimant.

Testimony and exhibits presented at the hearing show that the Claimant last worked as a conductor on a train on July 1, 2015, and had not worked since he tied up from that train trip at 2313 hours on July 1, 2015.

It is noteworthy that Superintendent Operations Kayser, who appeared as a Carrier witness at the hearing, offered the following testimony when asked if he was aware of any reason why the Claimant had not worked since July 1, 2015:

On July 20th Mr. Carlsson and I had a conversation in my office in Spokane, I asked him where you've been and what was going on and at that time he indicated to me that he no longer wanted to work as a Conductor for the BNSF Railway.

In the circumstances of record, and in consideration of the Claimant's past record, the Board finds the Carrier to have shown sufficient just cause for its dismissal of the Claimant from its service. The claim will, therefore, be denied.

Award:

Claim Denied.



Robert E. Peterson
Chair & Neutral Member



Melissa A. Beasley-Coke
Carrier Member



J. Michael LaPresta
Organization Member

Fort Worth, TX

Dated: 9/25/17