

**This is a relatively good article however the intent is to scare some people away from submitting a claim. If you have a doubt about a claim contact a local chairman they will give you the right information, a penalty claim is a dispute action, not a dishonesty action, you are not trying to steal from the carrier, if like I said have a question call the local chairman if you have any doubt about the schedule violation.**

**Jim Larkin LAC**

## **Bad Claim or Fraudulent Claim?**

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One of the questions we are frequently asked in Labor Relations is, "What is the difference between a bad claim and a fraudulent claim?" Knowing how to differentiate the two is very important. If a claim is just a bad claim, without merit, BNSF will simply decline to pay it. However, if a claim is fraudulent, the employee may be subject to disciplinary action up to and including dismissal.

Our labor agreements are complicated and often give rise to multiple interpretations. While we may not agree with the employee's reasoning for a particular claim, that does not, by itself, make the claim fraudulent. For example, if an engineer claims a basic day because we required him to carry SCBA gear, (and he did, in fact, carry the gear) his claim is without merit, not fraudulent.

A claim is only fraudulent if the underlying basis for claim is not factual. For example, if an employee claims to have worked overtime hours that were not really worked, or moved an ETD that was not moved, the basis for the claim is not factual. These claims are fraudulent.

It is also important not to confuse an inadvertent error with fraud. For example, consider the employee that puts in the wrong tie-up time in the computer. While it is possible that he is doing so to defraud the company into paying for additional time not worked, it is also possible he may have made a simple typographical error. To determine if fraud occurred, there must be some indication of intent. In this example, if this same employee put in incorrect tie up times everyday for a week, and the errors resulted in pay not due, we have established a pattern of misconduct that indicates fraud.

Because of the seriousness of a dishonesty charge and the potential consequences, you should contact Labor Relations if you believe you have a fraudulent claim. We will help evaluate our ability to prove our case, and in some cases we will partner with Internal Audit in building our case. In the past, we have been very successful in these coordinated efforts.

So, in summary, not all "bad" claims are fraudulent. A claim is only fraudulent if the stated facts are false, and we can show these false statements are being made with the clear intent to defraud BNSF. If you have a potentially fraudulent claim, call Labor Relations and we will walk with you through the evaluation and investigation process.