

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44016
Docket No. MW-45516
20-3-NRAB-00003-190342**

The Third Division consisted of the regular members and in addition Referee Erica Tener when award was rendered.

**(Brotherhood of Maintenance of Way Employes Division -
IBT Rail Conference**

PARTIES TO DISPUTE: (
(New England Central Railroad

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (dismissal) imposed upon Mr. D. Woodward, by letter dated August 9, 2018, for allegedly exceeding the limits of his main track authority on July 13, 2018 was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (NCR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant D. Woodward shall be reinstated to service with seniority and all other rights and benefits unimpaired, his record cleared of the charges leveled against him and shall be compensated for all lost wages, including overtime and benefits.”**

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Daren W. Woodward (Claimant) was hired by the New England Central Railroad (Carrier) on March 13, 1995. The facts of this case are undisputed. On July 13, 2018, the Claimant worked as Track Inspector assigned to patrol the Palmer Subdivision. He received track warrant authorizing him to occupy the Palmer main track from Milepost (MP) 63 to 45. While performing his duties, the Claimant approached MP 45, stopped his vehicle and attempted unsuccessfully to contact Signal Maintainer Casey Stegman. The Claimant proceeded beyond MP 45, outside the limits of his track warrant authority. The Claimant eventually contacted Stegman from behind MP 38.09.

As a result the Claimant was instructed to attend a formal investigation to “determine responsibility, if any in connection with a report that on Friday, July 13, 2018, at approximately 11:50 hours, while you were providing service as a Track Inspector, you exceeded the limits of your Main Track Authority.” The formal investigation was conducted on July 24, 2018. By letter dated August 9, 2018, the Claimant was issued a notice of discipline which advised he was dismissed from service for violations of GCOR 6.3 – Main Track Authorization, 14.1 – Authority to Enter TWC Limits and 1.6 – Conduct.

The Carrier argues it met its burden to present sufficient evidence and had just cause to dismiss the Claimant. The Carrier argues rules and procedures governing track authority are safety sensitive and must be carefully followed. The Claimant exceeded his authority on the Main Line by close to seven (7) miles. Furthermore, the Carrier submits the Claimant’s admission is sufficient evidence to support its findings. Based on the seriousness of the violation and the Claimant’s prior disciplinary record, the Carrier requests the Board deny this Claim in its entirety.

The Organization does not deny any of the facts or arguments presented by the Carrier. However, it asks the Board take into consideration the Claimant’s honesty about the incident.

The Board has reviewed the record in this matter and finds that the Carrier had just cause to discipline the Claimant for exceeding his track authority on the Main Line. As numerous Boards in this industry have held, exceeding track authority amounts to

serious misconduct and cannot be ignored by the Carrier. Based on the severity of this offense, dismissal is appropriate.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of April 2020.