

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44340
Docket No. 45439
20-3-NRAB-00003-190291**

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: (
(UNION PACIFIC RAILROAD COMPANY (former
Southern Pacific Western Lines)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier improperly disciplined Mr. M. Curtis on November 1, 2017 (System File T-1745S-904/1698073 SPW).**
- (2) As a consequence of the violations referred to in Part (1) above, the Carrier shall remove all mention of the matter from Claimant M. Curtis’ employment file and make him whole for any and all loss.”**

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.

On November 1, 2017, Carrier Manager Track Maintenance Craig Whiteley conducted a coaching session with M. Curtis (Claimant) because the Claimant failed to produce a current copy of the Carrier's General Orders and Operating Rules when asked. Whiteley subsequently issued two (2) letters of exception for the incident. The Organization filed the instant claim on December 6, 2017 on behalf of the Claimant alleging the Carrier violated the Agreement when it issued discipline without following the rules and procedures set forth in Rule 45. The Organization also alleged the Claimant should not have been held responsible for the missing documentation. The parties were unable to resolve the matter after processing it in the normal and customary manner on property. This dispute is now properly before this Board for final adjudication.

The parties dispute whether coaching sessions are forms of discipline as contemplated by Rule 45 of the Agreement. The Carrier contends they are not. Rather they serve as a means to educate or improve employee behavior. The Carrier points out it has an established process by which employees can challenge the results of a coaching session. The Claimant chose not to follow that process and instead asked the Organization to file this claim. The Carrier relies on a number of Board awards that found that coaching conferences are not formal discipline requiring a formal investigation hearing.

The Organization disagrees and argues the formality of documenting the event is a first step on which further discipline may be based. The Organization also argues the Carrier failed to present evidence to support the allegation that the Claimant violated its rules. In this case, Whiteley conducted an audit of the vehicle in which the Claimant was a passenger. As such, the Organization contends the Claimant was not responsible for the missing documentation.

Based on our review of the record we find that the coaching session and subsequent documentation on November 1, 2017 are not discipline and the claim must be denied. The Assessments/Observation form contains language instructing the recipient on process for challenging coaching sessions. It is the Claimant's responsibility to avail himself of that process. He chose not to.

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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 6th day of January 2021.