

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45311
Docket No. MW-47802
24-3-NRAB-00003-230188**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division –
(IBT Rail Conference**

PARTIES TO DISPUTE: (
(Soo Line Railroad Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline [ten (10) demerits] imposed upon Mr. E. Snow, by letter dated December 29, 2021, for alleged violation of US Rulebook for Engineering Employees 1.3.3 Circulars, Instructions and Notices was on the basis of unproven charges, was in violation of the Agreement and was arbitrary and excessive (System File D-73-21-445-31/2022-00026948 CMP).**
- (2) As a consequence of the violation referred to in Part (1) above, the discipline imposed upon Claimant E. Snow shall now be: “*** set aside, and the Claimant be made whole for all financial and benefit losses incurred as a result of the violation. Such remedy includes:**
 - 1) Straight-time compensation for any and all wages and benefits the Claimant would have otherwise received during his attendance at the investigative hearing held December 14, 2021.**
 - 2) The reimbursement of any and all travel mileage or automobile expenses incurred by the Claimant for his travel to and from the hearing location on December 14, 2021.**
 - 3) The removal of the assessed discipline from any and all CP records, including the Claimant’s personal record. In other words, this appeal seeks to make the Claimant whole and expunge his record, the same as if he was never affected by this suspension from service.”**

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.

Our review of the record does not show it to contain any procedural irregularities of consequence.

The Claimant was assessed a 10-demerit penalty for operating a crane without first protecting the perimeter of his working area by putting out orange warning cones to a distance of 40 feet. This deficiency was observed by the local Roadmaster, who initiated the applicable disciplinary procedure.

This same kind of deficiency was observed the previous month on October 5. At that time the Claimant was counseled and assessed an efficiency test failure but no other discipline.

The 10-demerit assessment is consistent with the first step of the Carrier's schedule for Non-Major Offenses.

Our examination of the record shows the Carrier's disciplinary action is supported by substantial evidence contained in it. Accordingly, there is no proper basis for disturbing the Carrier's action.

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 29th day of August 2024.