

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 45386  
Docket No. MW-48060  
25-3-NRAB-00003-230468**

**The Third Division consisted of the regular members and in addition Referee Barbara C. Deinhardt when award was rendered.**

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

**PARTIES TO DISPUTE: (**  
**(National Railroad Passenger Corporation (AMTRAK)**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The discipline (second disciplinary action) imposed upon Mr. S. Humphries, by letter dated May 27, 2022, in connection with his alleged violation of the Carrier’s Railroad Worker Protection Policy 321: Exclusive Track Occupancy, was in violation of the Agreement (Carrier’s File 162498 NRP).**
- (2) As a consequence of the violation referred to in Part (1) above, the Carrier shall now rescind the decision to discipline Claimant S. Humphries and shall make him whole in every way.”**

**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.**

According to the Carrier, the Claimant was assessed a Second Disciplinary Action after failing to properly copy the limits of a Track and Time. Specifically, on March 22, 2022, the Claimant, in his duty as Foreman, contacted the Train Director to request track authority. The Train Director issued track authority with limits from East CP211 to West CP190. The Claimant incorrectly repeated the instructions back as East CP211 to East CP190 and proceeded to work under the incorrect track limits while unprotected. Later that day, the mistake was caught when the Claimant was clearing track time with the second shift Train Director and then reported the incident to the Assistant Superintendent of Dispatch, who reported it to Assistant Division Engineer for Track. Amtrak's VSR Policy outlines that if an employee makes a mistake, the employee must report the safety incident immediately and voluntarily report the mistake before management discovers it. The Claimant was aware of the VSR Policy but failed to submit any legitimate VSRs. The Claimant's actions were also in direct violation of Amtrak's Railroad Worker Protection Rule 321 by incorrectly repeating the contents of the track authority. The Claimant was aware that this conduct was unacceptable. Thus, the Second Disciplinary Action was appropriate, the Carrier contends.

The Organization argues that (1) the Carrier failed to afford the Claimant a fair and impartial investigation; (2) the Carrier failed to meet its required burden of proof; and (3) the discipline imposed upon the Claimant was arbitrary and excessive. According to the Organization, the lack of specificity in the Notice of Investigation about the nature of charges constitutes a clear violation of the Claimant's due process rights as outlined in the Agreement. Moreover, the Carrier failed to establish any proof that the Claimant violated the Rule. In this instance, Roadway Worker Protection (RWP) Rule 321(b)(1) is in issue. This rule states that "Where authority for exclusive track occupancy is transmitted orally, the authority shall be written as received by the RWIC and repeated to the issuing employee for verification." In this case, it is clear that the Claimant wrote the orally transmitted authority down, as he heard/received it, and sought the verification he was responsible for seeking, concerning the authority as he had received it, and received verification from the dispatcher. Finally, the Carrier's decision to assess the Claimant a Second Disciplinary Action with a 24-month probation was excessive and unwarranted, particularly in light of the Claimant's 24 years of nearly discipline-free employment.

Upon a review of the record as a whole, the Board finds that the Carrier has met its burden of proof. While it appears from the record that the dispatcher bears some responsibility for the miscommunication, it also appears that the Carrier took this mitigating factor into consideration in assessing the degree of discipline. It is undisputed

that the Claimant made an error in recording the track authority and that the consequences could have been serious. Thus, the Second Disciplinary Action was warranted.

**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 19<sup>th</sup> day of December 2024.