

PUBLIC LAW BOARD NO. 5606

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) SPRINGFIELD TERMINAL RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- 1. The fourteen (14) day suspension assessed Trackman F. J. Michaud for his alleged violation of Roadway Worker On-Track Protection Rules was without just and sufficient cause, based on an unproven charge and in violation of the Agreement.**
- 2. As a consequence of the violation referred to in Part (1) above, Mr. Michaud shall be compensated for all wage loss suffered and have his record cleared of this incident. (Carrier File MW-03-09)**

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The claim here presented on appeal arises from discipline assessed Claimant Michaud following the same investigative hearing that was the subject of Case No. 22 and which involved Claimant Gallant. The Board decided the appeal of Claimant Gallant in its Award No. 22. Claimant Michaud, in this case, and Claimant Gallant in Case No. 22, were summoned to a joint company hearing on like charges of an alleged violation of Roadway Worker On-Track Protection Rules while working together on October 2, 2002 in Rigby Yard.

The Board finds no basis for a different determination in this case than as it set forth in disposition of Case No. 22 in its Award No. 22. Therefore, the instant claim will likewise be sustained in a procedural finding that the overall deplorable nature of the transcript of hearing is sufficient to declare a mistrial, and thereby preclude the Board from reaching out to a consideration of the merits of the dispute.

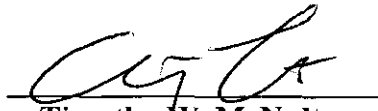
PLB 5606

AWARD:

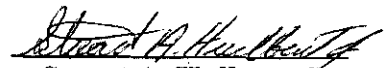
Claim sustained.



Robert E. Peterson
Chair & Neutral Member



Timothy W. McNulty
Carrier Member



Stuart A. Hulburt, Jr.
Organization Member

North Billerica, MA

Dated Sept. 30, 2004