

CTC limits onto the Terminal Railroad trackage, Claimant did not perform that function. Therefore, the Carrier's determination that Claimant violated the cited rules governing safety, track and time is supported by substantial evidence in this record.

In light of Claimant's responsibility for the operation of the grinder within the permit limits, the Organization's assertions that Claimant may have advised others of the boundaries of the permit, had not specifically authorized movement past the limits of the permit or that the relief pilot had arrived do not change the result or detract from the fact that Claimant's responsibility was to see that the permit limits were not violated. In part, the Organization's arguments are premised upon resolution of credibility conflicts in favor of Claimant's version of the events. Absent compelling reasons exhibited by the record which are not present in this matter, it is not the function of this Board to resolve credibility conflicts. Further, with respect to the arrival of the relief pilot, we note that the record demonstrates that at the time Claimant was released, the grinder had already exceeded the limits of the permit.

However, although we are of the opinion that the Carrier has demonstrated substantial evidence to support the conclusion that Claimant committed the rule violations as alleged, we are not satisfied that dismissal was warranted. In light of Claimant's length of service, we are of the opinion that dismissal was excessive in this case. We shall therefore require that Claimant be returned to service. Because of the serious consequences that could occur when a track and time permit is violated in the manner demonstrated by the record in this case and because we note that this is not the first time that Claimant was disciplined for safety related issues (i.e., a September 1981 dismissal and a February 1983 reinstatement without pay), return to service shall be without compensation for time lost.

AWARD

Claim sustained in part. Claimant shall be returned to service with seniority

unimpaired but without compensation for time lost.



Edwin H. Benn
Neutral Member



E. J. Kallinen
Carrier Member



P. S. Swanson
Organization Member

Denver, Colorado
December 7, 1988