

PUBLIC LAW BOARD NO. 5850

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

BNSF RAILWAY COMPANY

Case No. 496 – Award No. 496 – Woodson
Carrier File No. 14-18-0579
Organization File No. 2401-BN40A1-1820

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

We present the following claim on behalf of Charles Woodson, EMP id 0371609 Seniority Date 05-06-2015 for the removal of the Claimant's Level S, 30 Day Record Suspension and 3 year review. In addition, we request all record of discipline be removed from the Claimant's record. The Claimant shall be made whole as a result of the Carrier's violation.

FINDINGS:

Public Law Board No. 5850, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Claimant, Charles Woodson, has been employed by the Carrier since 2015. On August 30, 2018, the Carrier notified Claimant to attend an investigation to ascertain the facts and determine his responsibility, if any, in connection with his alleged failure to report to work at his designated time and location on August 29, 2018 at 0600 while working as a laborer on gang TTPX0006. Claimant did not attend the investigation, although an Organization representative was present on his behalf. He acknowledged that he had received the Investigation Notice as well as the subsequent postponement notices.

Following the investigation, the Carrier found Claimant guilty of having been absent without official leave (AWOL) and failing to notify the Carrier until the following morning. The Carrier found that Claimant had violated EI G.4 BNSF Employee Absenteeism Notification and

Layoff Policy and Maintenance of Way Operating Rule (MWOR) 1.15 Duty—Reporting or Absence. The Carrier assessed him a Level S 30-day record suspension with a three-year review period.

The facts of this case are not in dispute. Roadmaster Ethan Heimbaugh stated at the investigation that he was Claimant's supervisor at the time of the incident. He explained that Claimant failed to appear for work on Wednesday August 29, 2018 and did not contact his foreman or Mr. Heimbaugh by telephone call, text, e-mail or any other means that day. Mr. Heimbaugh stated that Claimant called him the next morning and told him his phone had been dead the day before. Claimant's personal record shows no previous discipline.

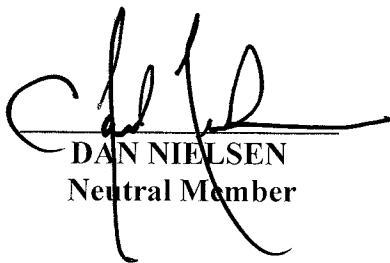
The Organization does not dispute that Claimant is guilty of the charges against him. Rather, it points to the fact that Claimant has no prior discipline and asserts that he is an excellent employee. Therefore, the Organization argues, the discipline is excessive and unwarranted.

We disagree. As the Carrier states, its Policy for Employee Performance and Accountability (PEPA), includes unauthorized absences as serious rules violations. Claimant left his position unfilled on the day at issue, and there is no record evidence of an explanation for his absence or any reasonable attempt to contact the Carrier so that it could make arrangements to cover his absence. As the Carrier points out, numerous decisions, including PLB 7394 No. 51 between these parties, have upheld serious discipline for employees who fail to report for work as scheduled, especially when they fail to give their employer advance notice, let alone no notice at all.

Claimant is a relatively short-term employee, and he committed a serious offense within the meaning of the PEPA. The discipline assessed comports with the PEPA and cannot be found excessive or unwarranted.

AWARD

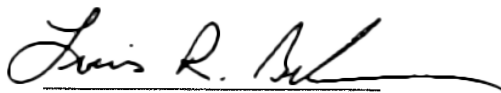
Claim denied.



DAN NIELSEN
Neutral Member



SAMANTHA DAIGLE
Carrier Member



LOUIS R. BELOW
Organization Member

Dated this 9th day of June, 2021.