

PUBLIC LAW BOARD NO. 5850

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

BNSF RAILWAY COMPANY

Case No. 525 – Award No. 525 – D. Schnarr, Jr.
Carrier File No. 14-19-0250
Organization File No. 0745-SL13A1-1916

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

We present the following claim on behalf of Heartland District 900 employee Mr. Daniel Schnarr (0071290) for removal of the Claimants Standard Formal Reprimand and one (1) year review period. The Claimant should be made whole for financial losses as a result of the violation, including compensation for straight time wages lost during the investigation. All notations of the issued discipline should be removed from all Carrier records.

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, D. Schnarr, Jr., has been employed by the Carrier since 2011. On July 25, 2019, following an investigation, the Carrier found Claimant guilty of failing to report for duty and failing to absenteeism notification requirements on June 12, 2019. The Carrier determined that Claimant had violated Maintenance of Way Operating Rule (MOWOR) 1.15 Duty—Reporting or Absence and Engineering Instruction (EI) G.4 BNSF Employee Absenteeism and Layoff Policy and assessed him a Standard Formal Reprimand with a one-year review period.

On June 12, 2019, Claimant was assigned as a Lead Welder on TRWX2116. At 7:01 a.m., Roadmaster Nathan Norris received a text message from Claimant asking him to call Claimant after the morning conference call. When Mr. Norris called Claimant a few minutes later, Claimant stated that he overslept and asked to take a personal or vacation day. Mr. Norris denied Claimant's request, reminding Claimant that they had already discussed the attendance policy and Claimant's

Coaching and Counseling Letter for previous absenteeism, and informed Claimant this would be an unapproved absence.

The Carrier argues that Claimant violated MOWOR 1.15, which requires employees to report for work prepared to perform their duties at the designated time and place, when he failed to appear at the depot at the start of his assigned shift. He also failed to notify his supervisor of his absence until after his shift had already started.

The Organization maintains that Claimant has been unfairly disciplined, arguing that other employees have been tardy and yet were allowed to work the rest of their shift without being disciplined. In support, the Organization points to testimony from Mr. Norris and from Claimant that confirms that other employees have been late but have been allowed to work anyway.

The Organization also raise several procedural arguments, the first of which being that Claimant never received notice of the investigation despite USPS Tracking information demonstrating the letter was delivered. It also asserts that the Hearing Officer allowed statements provided by Carrier into the record but not those provided by Claimant, which may have exonerated Claimant.


We do not find the Organization's procedural arguments compelling here. Not only does the tracking information provided by the Carrier illustrate that notice of the investigation was properly sent and delivered to Claimant's residence, but the statements provided by Claimant were properly excluded as none of the individuals were present for cross-examination.

After a thorough review of the record, we find that the Carrier has met its burden of proving by substantial evidence that Claimant violated the rules in question. Claimant admitted that did not report for duty at the designated time and place and that he failed to notify his supervisor, Mr. Norris, prior to the beginning of his shift. It is well settled that such admissions are sufficient to satisfy the Carrier's burden of proof. Further, no evidence was provided to substantiate the contention that Claimant was treated any differently than other employees. Therefore, we deny the claim.

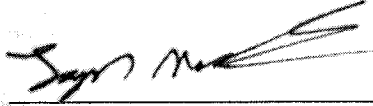
With regard to discipline, this was Claimant's first Standard Violation. Under the Carrier's Policy for Employee Performance and Accountability (PEPA), "an employee who commits an initial Standard Violation will receive a formal reprimand with a Review Period of 12 months." Claimant did not lose time or pay as result of the reprimand, and we cannot agree that such discipline is excessive. The penalty assessed was in accordance with the PEPA and we see no basis for disturbing it.

AWARD

Claim denied.



DAN NIELSEN
Neutral Member



LOGAN MCKENNA
Carrier Member



JEFFERY L. FRY
Organization Member

Dated this 26 day of March , , 2025.