

**PUBLIC LAW BOARD NO. 5850**

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**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**vs.**

**BNSF RAILWAY COMPANY**

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Case No. 527 – Award No. 527 – L. Katoney  
Carrier File No. 14-19-0283  
Organization File No. 2417-BN40A2-191

**STATEMENT OF CLAIM:**

Claim of the System Committee of the Brotherhood that:

We Present the following claim on behalf of Lawrence Katoney Emp ID (1225796), Seniority Date 11-17-1997 for the removal of the claimants Standard Formal Reprimand and 1 Year Review Period. In addition, we request all record of discipline be removed from the Claimants record. The Claimant shall be made whole as a result of the Carrier's violation, including the following compensation(s).

**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, L. Katoney, has been employed by the Carrier since 1997. On August 9, 2019, following an investigation, the Carrier found Claimant guilty of exhibiting quarrelsome and disrespectful behavior toward others on June 19, 2019. The Carrier determined that Claimant had violated MOWOR 1.6 Conduct and assessed him a Standard Formal Reprimand with a one-year Review Period.

At all times relevant, Claimant was working as a Machine Operator. On June 19, 2019, Claimant attended an Engineering Safety Leadership Training (ESLT) with approximately 25 other employees. At the end of the training, Division Engineer Sheri Ellis asked the group if there were any other safety concerns, at which point, Claimant raised a concern he had with the lack of

lighting on the tampers. Claimant previously raised the issue in January 2019, but it was not resolved.

Ms. Ellis and Roadway Equipment Supervisor Randy Eisenzimmer proceeded to explain to Claimant why the Company would not be retrofitting the tampers for spotlights. Testimony from Ms. Ellis and Mr. Eisenzimmer indicated that during this conversation, Claimant was overly aggressive and continued to interrupt Ms. Ellis, suggested that the Company did not care about its employees' safety, and refused to look at Ms. Ellis when she was speaking to him, actions which they considered quarrelsome and disrespectful. Claimant disagreed.

Before the group left, Ms. Ellis reminded everyone to be respectful in approaching others and asking questions, one of the topics covered at that training session. Directly following the training, Claimant approached Ms. Ellis about her statement, which she explained was a general statement to the group. Ms. Ellis testified that Claimant interrupted her several times during this conversation. Claimant testified that he approached Ms. Ellis in order to apologize in case she had misconstrued his behavior in the training.

The following day, Claimant was called into a meeting with Ms. Ellis and General Director of Maintenance John Wiederholt, in part to discuss his behavior at the training the day prior. Ms. Ellis testified that during the meeting, Claimant was combative, accusing Mr. Wiederholt of having already "made up his mind" about Claimant. She explained that Mr. Wiederholt asked Claimant to commit to approaching people in the field respectfully, which Claimant refused to do. Claimant testified that Mr. Wiederholt asked if Claimant would commit to not be quarrelsome, to which Claimant "could not, in good faith, say yes," because of the possibility that others may view him as such.

As an initial matter, the Carrier alleges that the Claimant's appeal is procedurally deficient as it failed to identify the governing agreement or any rule that was violated. The Carrier explains that if no violation of any rule or agreement is cited, then no such violation could have occurred.

Substantively, the Carrier argues that when Mr. Eisenzimmer and Ms. Ellis attempted to respond to his question, Claimant became argumentative and refused to make eye contact with Ms. Ellis when she spoke to him. He approached her again after the meeting in an aggressive manner and continued to interrupt her during their conversation.

The Carrier also points out that Claimant was again combative during his meeting the following day with Ms. Ellis and Mr. Wiederholt. Claimant admitted that he could not "in good faith" commit to being less quarrelsome, illustrating that he was unable to communicate his concerns without being combative and disrespectful. Lastly, whether Claimant had a cold is irrelevant as it does not change the fact that he was quarrelsome and disrespectful.

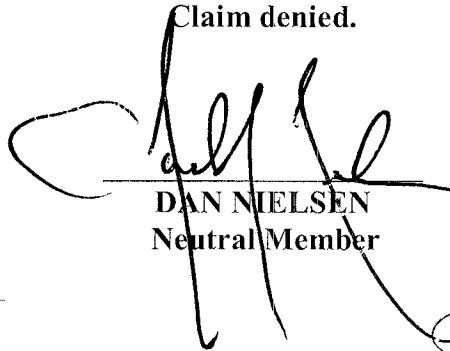
The Organization contends that Claimant was suffering from a cold at the time of the alleged violation, did turn his head toward Ms. Ellis when she was speaking, and honestly believes he did not violate MOWOR 1.6. Seven eyewitnesses to the exchange provided statements which confirm that Claimant was not quarrelsome or disrespectful. Of the five employees who provided statements stating the opposite, none knew Claimant personally and none knew he had a cold.

We have reviewed the record in its entirety and find that the Carrier has met its burden of proving by substantial evidence that Claimant violated MOWOR 1.6. In addition to testimony from Ms. Ellis and Mr. Eisenzimmer, the Carrier presented two other witnesses who were present at the training and whose description of the events corroborate those given by Ms. Ellis and Mr. Eisenzimmer. Specifically, they confirmed that Claimant made negative remarks about the Company, refused to look at Ms. Ellis, and used an aggressive tone. Although the Organization presents several witnesses in whose opinions Claimant was not quarrelsome or disrespectful, their testimony regarding Claimant's tone of voice and whether he looked at Ms. Ellis when she spoke to him is inconsistent.

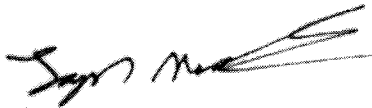
Regarding discipline, Claimant's behavior constitutes a Standard Violation under the Carrier's Policy for Employee Performance and Accountability (PEPA). An initial Standard Violation warrants a Formal Reprimand with a 12-month Review Period. Thus, the penalty here was in accordance with the Carrier's PEPA, and we see no reason to disturb it.

**AWARD**

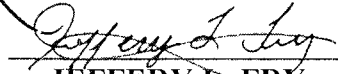
**Claim denied.**



**DAN NIELSEN**  
Neutral Member



**LOGAN MCKENNA**  
Carrier Member



**JEFFERY L. FRY**  
Organization Member

**Dated this 26 day of March , , 2025.**