

**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. 558 – Award No. 558 – J. Chastain  
Carrier File No. 14-21-0125  
Organization File No. 2405-SL13A1-2107

**STATEMENT OF CLAIM:**

Claim of the System Committee of the Brotherhood that:

We present the following claim on behalf of Joshua Chastain (0280503) Seniority date April 7, 2014, for the reinstatement, with seniority, Medical Benefits, vacation, all rights unimpaired and pay for all wage loss including any overtime hours commencing on April 1, 2021, continuing forward and/or otherwise made whole.

**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, J. Chastain, had been employed by the Carrier since 2014. On April 1, 2021, following an investigation, the Carrier found Claimant guilty of failing to report for duty and failing to notify his supervisor on February 24, 2021. The Carrier found that Claimant had violated Maintenance of Way Operating Rule (MOWOR) 1.15 Duty—Reporting or Absence and dismissed him from service.

At all times relevant, Claimant was working as a Welder on gang TRWX1283 out of Newton, Kansas. On February 24, 2021, Claimant was supposed to report for duty in Newton, Kansas, at 0700 hours. Roadmaster Kyle Jacobs testified that Claimant is one of two crew members on the Newton Welding Truck and both crew members are needed to complete the day's work. Claimant did not notify Mr. Jacobs that he would be absent from work that day. Mr. Jacobs also checked with the work groups out of Newton, none of whom had heard from nor seen Claimant.

Mr. Jacobs provided phone records indicating that he called Claimant on February 24, 2021, at 7:17 a.m., and he testified, Claimant did not answer the phone.

Claimant previously received a Level-S 30-day Record Suspension with a one-year review period on October 5, 2020, for failing to report for duty on September 18, 2020 and for reporting two hours late to his designated worksite and failing to notify his supervisor on September 21, 2020. On March 8, 2021, he was dismissed for failing to report for duty and failing to notify his supervisor on February 9, 2021 and February 10, 2021.

The Carrier asserts that Claimant was given proper notice of the investigation under Carrier Rules, but he willingly chose not to attend the investigation. The Carrier further contends that Claimant was aware of the requirements of MOWOR 1.15 and knew he was scheduled to report for duty on February 24, 2021 yet did not bother to communicate with his supervisor about his absence that day. Even after Roadmaster Jacobs attempted to call Claimant, Claimant did not respond. Claimant has a pattern of this same violation on multiple dates and this violation occurred during an active review period. Therefore, dismissal was warranted and the claim should be denied.

The Organization argues that the Carrier failed to afford Claimant an opportunity to explain the incident when it proceeded with the investigation despite Claimant's absence and over the Organization's objections. As such, the Organization believes Claimant's discipline is excessive and unwarranted and asks that Claimant be reinstated and made whole.

This is the second of three claims before this Board for the same Claimant regarding almost identical violations. It was Claimant's choice not to attend the investigation, and the record clearly supports his guilt by substantial evidence.


As we noted in Case No. 557, the Organization's assertion that the discipline is excessive and unwarranted is without merit. This would be Claimant's second additional Level-S violation within an active review period for another unauthorized absence violation, a serious offense, and we see no reason to disturb the penalty here.

**AWARD**

**Claim denied.**

  
**DAN NIELSEN**  
Neutral Member

  
**JOE HEENAN**  
Carrier Member

  
**JEFFERY L. FRY**  
Organization Member

**Dated this 30th day of March 2025.**