

**PUBLIC LAW BOARD NO. 5850**

**Case No. /Award No. 580**  
**Carrier File No.: 14-22-0040**  
**Organization File No.: 2415-SL13A1-2125**  
**Claimant: R. Thompson**

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<b>BNSF RAILWAY COMPANY</b>	)
<b>(former Burlington Northern Railroad Company)</b>	)
	)
<b>-and-</b>	)
	)
<b>BROTHERHOOD OF MAINTENANCE</b>	)
<b>OF WAY EMPLOYES DIVISION - IBT</b>	)

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**STATEMENT OF CLAIM:**

*We Present the following claim on behalf of Randy Thompson, Emp ID 0314245, Seniority Date 09-10- 2014, for the removal of the claimant's Standard Formal Reprimand and 1 Year Review Period. In addition, we request all record of discipline be removed from the Claimant's record.*

**CARRIER POSITION:**

On October 29, 2021, Claimant was a Group 5 Machine Operator on Region System Gang (RSG) Rail Production TRPX0008. That day at approximately 1730 his supervisor, Roadmaster C. Cole, informed the gang that they would be required to work mandatory overtime the following day, Saturday, October 30, 2021, beginning at 0530.

A derailment had shut down both main tracks on nearby Needles Subdivision; it was unlikely that the gang would be granted the necessary track windows to complete their repairs the following Monday and Tuesday. Once the two mains on the Needles Subdivision reopened, trains delayed by the derailment would result in increased traffic in the area. Management determined TRPX0008 would work on October 30th to take advantage of available track windows to complete their repairs on schedule.

Claimant did not report as instructed to work the overtime. As a result, the Carrier determined that he had violated MWOR 1.13. This Rule states as follows:

**1.13 – Reporting and Complying with Instructions**

Employees will report to and comply with instructions from supervisors who have the proper jurisdiction. Employees will comply with instructions issued by managers of various departments when the instructions apply to their duties.

As the Carrier sees it, Claimant ignored Cole's instructions and simply chose not to report for mandatory duty. Claimant decided to ignore properly issued instructions from a supervisor. The Carrier notes that there is no limitation in the parties' Agreement on the Company's right to make overtime mandatory. It argues that management has the right to schedule overtime, mandatory or not, and failure to comply with instructions is a Serious (Level S) violation. It contends Claimant has been granted leniency in that he was only assessed a Standard Formal Reprimand.

### **ORGANIZATION POSITION:**

The Organization points out that Cole testified to the fact that Claimant informed him at the end of shift on October 29 that he would be absent for the overtime. Hence, Cole was fully aware of Claimant's anticipated absence fully eleven hours prior to start of the overtime shift. When asked whether Claimant had complied with the G.4 Rule and Absentee Policy, he replied: "Yeah, but I didn't excuse him from being gone." In the Organization's view, the transcript speaks for itself, and Claimant fully complied with BNSF's own Absenteeism and Lay Off Policy. The Organization does not agree with the level of discipline levied against Claimant and describes the issuance of a Standard Formal Reprimand with a One (1) Year Review Period as extreme and abusive.

### **DECISION:**

We are not persuaded by the Organization's argument that this should be treated solely as an attendance case. MWOR is plain and easily understood in its prohibition against ignoring instructions from a supervisor. The Carrier cannot ensure reliable railroad operations unless it can rely on its employees to perform the duties that have been identified by supervision as needed.

Cole was clear in his instruction to Claimant to work overtime. Claimant was equally clear in his intent to ignore those instructions, and indeed did not show for the shift. Cole's requirement of the overtime was not an abuse of managerial discretion; it was not reasonable under the circumstances of a derailment that had created a situation which needed to be quickly addressed. The record is devoid of any indication that the instruction was arbitrary, capricious or discriminatory. Nothing in the parties' Agreement restricts the Carrier in its managerial right to require overtime. There is no indication that Claimant suffered from extenuating circumstances making it unreasonable for him to follow the instruction. It follows that Claimant violated MWOR 1.13.

We are not persuaded by the Organization's attempt to characterize this offense as non-serious or to treat it as a simple absence. When employees fail to show for mandatory overtime, the

Carrier's operations are jeopardized due to lack of essential personnel. The Carrier was within its rights to view this offense as warranting imposition of a Standard Formal Reprimand.

**AWARD:**

The claim is denied.

Dated: January 7, 2024



Patricia T. Bittel, Neutral Member

  
Jeffery L Fry, Labor Member

\*\*\*\*RESERVE DISSENT



Logan McKenna, Carrier Member