

**PUBLIC LAW BOARD NO. 6043**

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**BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYES DIVISION - IBT RAIL CONFERENCE**

**Case No.: 386**

**Award No.: 386**

**vs.**

**ILLINOIS CENTRAL RAILROAD COMPANY**

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**STATEMENT OF CLAIM:** “Claim of the System Committee of the Brotherhood that:

1. The discipline [five (5) working days actual suspension from service and five (5) days deferred suspension] imposed upon Mr. A. Vicknair for violation of T.S.7.0 Track Inspection Guidelines in connection with an alleged failure to perform quality track inspections allowing the track to exceed standards leading to a derailment on June 5, 2017 was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File 17 06 30/IC-BMWED-2017-00070 ICE).
2. As a consequence of the violation referred to in Part 1 above, Claimant A. Vicknair shall have his record cleared of the charges leveled against him and shall be compensated for all wage loss suffered.”

**FINDINGS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier or employee within the meaning of the Railway Labor Act as approved June 21, 1934. Public Law Board 6043 has jurisdiction over the parties and the dispute involved herein.

Claimant holds seniority within the Carrier's Maintenance of Way Department. From June 1 through 5, 2017, Claimant was working as a track inspector under the supervision of Track Supervisor C. Gregr on the Baton Rouge Subdivision at/or near Mile Post 391.1. Claimant's assignment at this portion of track included inspection on a monthly basis in order to identify defects in the track structure and to prevent a worsening of the conditions.

On June 5, 2017, a derailment occurred at approximately MP 391.1 on the Baton Rouge Subdivision. Afterward, an inspection of the track conditions at and near the site of the derailment was conducted which found five defective ties, broken and missing lag fasteners, and saturated subgrade.

**On June 12, 2017, Claimant was given notice of an investigation in connection with the following charge:**

**The investigation is being held to develop the facts and to determine your responsibility, if any, in connection with an incident that occurred at approximately 0630 hours, Monday June 5, 2017 at or near Mile Post 391.07 on the Baton Rouge Subdivision at or near Gonzales, LA, which resulted in allegedly failing to perform quality inspections allowing the track to exceed standards leading to a derailment, and whether you violated any Company rules, regulations and/or policies in connection with the incident.**

**After a formal investigation on June 15, 2017, Claimant was found in violation of T. S. 7.0 Track Inspection Guidelines and assessed Five (5) Working Days Actual Suspension From Service and Five (5) Days Deferred suspension.**

**The Carrier contends that it has produced substantial evidence of Claimant's violations. The Carrier contends that Claimant failed to properly perform quality track inspections at MP 391.07 on the Baton Rouge Subdivision, resulting in a derailment.**

**The Carrier contends that there is no dispute in facts as Claimant admitted that he failed to perform the track inspections and report defects so that track conditions would be within standards. The Carrier contends that Claimant took full responsibility for the faulty inspection and promised to do better.**

**The Carrier contends that based upon the nature of the violation and Claimant's past disciplinary record, the penalty assessed was appropriate and consistent with progressive discipline. The Carrier contends that it imposed a very minor discipline for a potentially major violation.**

**The Organization contends that the discipline imposed by the Carrier was arbitrary and unwarranted and, as such, must be overturned. The Organization contends that the Carrier was also at fault as it conducted a blitz six months earlier where these conditions were discovered but failed to address the defects. The Organization contends that the Carrier failed to correct a known defect, which caused the derailment.**

**The Organization contends that the penalty was arbitrary and unwarranted, as Claimant was forthright, open and honest. The Organization contends that Claimant had no prior discipline in the ten years he served the Carrier as a track inspector. The Organization contends that this was Claimant's first derailment and thus the penalty was excessive.**

**The Board sits as an appellate forum in discipline cases. As such, it does not weigh the evidence de novo. Thus, it is not our function to substitute our judgment for the Carrier's judgment and decide the matter according to what we might have done had the decision been ours. Rather, our inquiry is whether substantial evidence exists to sustain the finding against Claimant.**


Claimant admitted that he failed to properly perform track inspections which led to a derailment. Where there is an admission of guilt, there is no need for further proof. This Board finds that sufficient evidence exists to support the findings against Claimant. The Organization's attempts to deflect responsibility to the Carrier are not persuasive.

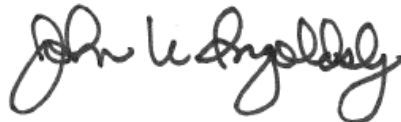
In addition, the Board finds no reason to disturb the relatively minor discipline imposed on Claimant. His lack of attention to his duties was responsible for a derailment. Although the record suggests that the Carrier learned of deteriorating track conditions six months earlier, Claimant inexplicably failed to identify and report the defects in the following months. The five-day actual plus five-day deferred suspension was not excessive under the circumstances.

**AWARD**

Claim denied.

  
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Kathryn A. VanDagens, Neutral Member

  
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Ross Glorioso, Organization Member

  
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John Ingoldsby, Carrier Member

Dated: August 12, 2021