

Public Law Board No. 7048

PARTIES) **Brotherhood of Maintenance of Way Employes Division**
) **ATSFF System Federation**
TO)
) **and**
DISPUTE:)
)
) **BNSF Railway Company**

Members of Board:

Jeanne M. Vonhof, Chairman and Neutral Member
Michelle McBride, Carrier Member
Jeffery Fry, Employee Member

Statement of Claim:

This letter is our appeal to you concerning the Standard Formal Reprimand issued to Ronnie Moorhead (1653344) on May 25th, 2022, by Josh LeMar, BNSF Signal Supervisor. The company states that Mr. Moorhead was in violation of MWOR 1.15 Duty-Reporting or Absence as cited in Carrier File Number SWE-MOW-2022-00126.

Findings of the Board:

Public Law Board No. 7048, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and that the Board has jurisdiction over the dispute herein; and that the parties to the dispute have participated in accordance to the Agreement that established the Board. The Board shall not have jurisdiction of disputes growing out of requests for changes in rates of pay, rules, or working conditions, nor have authority to change existing agreements or to establish new rules.

The Board shall have jurisdiction over the disputes assigned to this Board and such other disputes as may be added during the life of the Board by mutual assent of the parties.

The Claimant, Mr. Ronnie Moorhead, was notified of an investigation to determine his responsibility for his failure to report for duty at designated time and place when he allegedly called in after the start time of his position on March 21, 2022 while working as a Trackman on the Clovis Subdivision. The investigation was held on April 26, 2022 and as a result of that investigation the Claimant was assessed a Standard Formal Reprimand on May 25, 2022 for failing to report for duty at designated time and place. He was found in violation of MWOR 1.15 Duty-Reporting or Absence and was the Reprimand with a One (1) Year Review Period.

According to Mr. Jadrien Brittenum, Clovis East Roadmaster, there is evidence that the Claimant called in to report his illness on March 21, 2022 at 0503 or 0505 for a 0530 start time. However, if he did call off, he did not call off to an exempt supervisor but rather to Track Supervisor Dallas Fleming. Brittenum said that standard practice is to call off to the Roadmaster. Brittenum was on vacation that week, with Roadmaster Jerry Gonzalas, Roadmaster in an adjoining territory, covering for him.

Claimant said that Brittenum had told the crew on the previous Thursday that he was going to be on vacation the following week but did not say who would be covering for him. According to the Claimant, he began getting sick that day. Claimant said that sometimes they have employees call the Track Supervisor if the Roadmaster is on vacation.

The Carrier argues that this is a violation of MWOR Rule 1.15, which requires that “Employees must report for duty at the designated time and place with the necessary equipment to perform their duties...” The Organization argues, however, that the procedure here was unfair because four absences over the course of one week were considered as four separate violations, leading to the Claimant’s dismissal. The Organization argues that this procedure did not permit the Claimant the benefit of progressive discipline, the opportunity to improve his conduct after an initial warning or discipline. According to the Organization, this procedure violates the purpose of discipline and the principles described in the Carrier’s PEPA policy.

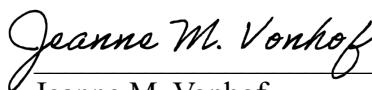
The Organization does not argue that no discipline was in order for the Claimant’s absences during the week of March 21, 2022, but rather that the dates should have been consolidated into a single discipline. However, this is the first date for which the Claimant was disciplined, for which

he was assessed a Standard Formal Reprimand. Because the Board has concluded that there is substantive evidence to support discipline in this case, the Organization's argument concerning the consolidation of later cases is not relevant to this discipline. Rather, the argument is relevant only to the later dates, which the Organization argues should not have been disciplined separately with increasing discipline.


The Claimant was disciplined for failing to call in before his shift began. He testified that he thought he was doing the right thing by staying home from work and calling in sick. He did call in; however, he failed to call an exempt supervisor in order to report off. The Carrier argues that he could have asked the Track Supervisor who the exempt supervisor was that day for their crew, but failed to do so, and so failed to properly call off. The Claimant had a responsibility to ensure that the supervisor, the Roadmaster, knew that he was not coming into work on March 21 before the start of the shift. Under these circumstances, the Board cannot conclude that the penalty of a Standard Formal Reprimand was arbitrary or excessive.

AWARD

Claim denied.



Jeanne M. Vonhof
Neutral Member and Chairperson



Michelle McBride
Carrier Member



Jeffery Fry
Employee Member

Award Date: **January 8, 2025**