

PUBLIC LAW BOARD NO. 7357

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 57
Case No. 57
Carrier's File No 8-00971 DHR

-and-

Delaware and Hudson Railroad Company d/b/a Canadian Pacific Railway

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

1. The Carrier's discipline [five (5) day suspension] of Mr. C. Gore for allegedly failing to wear the proper personal protective equipment in violation of GCOR Rule 1.3.1 on January 21, 2014 while assigned as a work equipment mechanic was without just and sufficient cause.
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Gore shall have the discipline overturned and be compensated for all losses suffered.

FINDINGS:

This Public Law Board 7357 finds that the parties are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated February 27, 2014, the Claimant, Mr. Caleb Gore, was notified by the Carrier that he was assessed the discipline of 5-day suspension to be served, as follows:

Dear Sir:

As a result of the facts developed at the formal investigation hearing held on Thursday, February 6th, 2014 you have been found to be in violation of GCOR Rule 1.3.1.

Your record has been accessed with a five day suspension, to be served. This suspension will begin on March 17th to March 21st, 2014, with an expected return to work the date of March 24th, 2014.

s/Neil Higgins – Deputy Regional Chief Engineer East

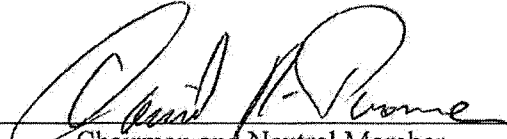
The Organization appealed this discipline, and the matter has been progressed to this Board for adjudication.

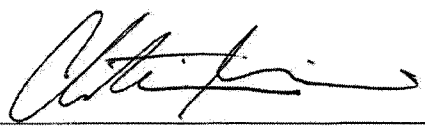
No basis exist in the record before the Board to set aside the discipline on procedural grounds.

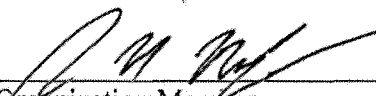
Substantial evidence of record supports the Carrier's determination that Mr. Gore was not using proper PPE (personal protective equipment) as charged. The Engineering Services Work Glove Chart states that for grinding and stationary grinders the minimum requirement is leather palm gloves. And while Paul Raymer, Manager Work Equipment, testified that he saw Mr. Gore walking away from the grinder wearing disposable latex gloves, Mr. Gore testified that he was away from the grinder sitting down when Mr. Raymer saw that he did not have the proper gloves on. Clearly the record established that Mr. Gore was not wearing proper personal protective equipment while on duty in the vicinity of the grinder, wearing disposable latex gloves when his grinder duties required that he wear leather palm gloves.

We find that the 5-day suspension is neither arbitrary, capricious nor excessive. We shall deny this claim.

Award
Claim denied.


Chairman and Neutral Member


Carrier Member


Organization Member

Dated: 12/7/17