

AWARD NO. 14

Case No. 14

Organization File No. C141208 PLR

Carrier File No. 15-04

**PUBLIC LAW BOARD NO. 7460**

PARTIES     ) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION  
              )  
TO            )  
              )  
DISPUTE     ) PADUCAH & LOUISVILLE RAILWAY

STATEMENT OF CLAIM:

1.     The dismissal of Mr. G. Brasher for violation of Paducah & Louisville Railway, Inc. Operating Rules A, A(4), C and I(1) in connection with the allegations that on November 18, 2014, when sent to investigate an issue under investigation and secure photos of specified materials that you prepared fraudulent photos and presented false testimony in an attempt to manipulate the outcome of said formal investigation was on the basis of unproven charges, arbitrary, capricious and excessive.
2.     As a consequence of the violation referenced in Part 1 above, Mr. G. Brasher shall "\*\*\*\* be exonerated of all charges and placed back in service in accordance with Rule 30(g) and be reimbursed for all wage loss sustained as a result of the Carrier's action."

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated December 16, 2010, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

The case arises from the events and circumstances addressed by this Board in Award No. 12. In that case, Foreman P. Brasher was charged with removing steel grating, which was the property

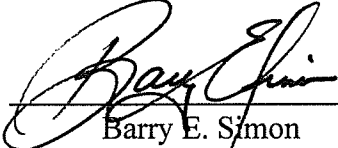
of the Carrier, from the Carrier's premises and using it for his personal benefit, namely in connection with building a homemade barbeque cooker. Claimant, who was employed as a Roadmaster, was sent to take pictures of the grating for use in the investigation. At the investigation, those photographs were introduced as evidence by Claimant. It was suspected, though, that the photographs were not of the grating that was the subject of the investigation. Instead, it was apparent they were photographs of other grating on the Carrier's premises and depicted grating that was larger than the grating that had been found at Foreman Brasher's home. It is undisputed that Claimant and Foreman Brasher are related.

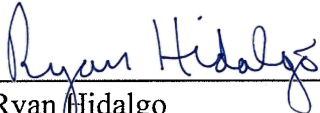
Claimant was subsequently directed to attend a formal investigation at which he was charged with presenting fraudulent photos and false testimony at Foreman Brasher's investigation. Following the investigation, Claimant was dismissed from service.

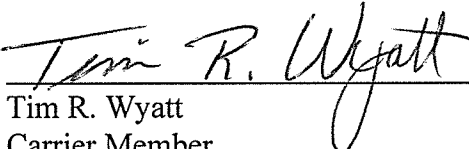
Based upon our review of the record of the investigation, it is the Board's conclusion that the Carrier had substantial evidence to support its charge against Claimant. It is not the role of this Board to weight the evidence or assess the credibility of witnesses at an investigation. That responsibility is reserved to the Hearing Officer, and we will overturn such a determination only upon a finding that it was unreasonably made. We can make no such finding in this case.

Claimant's responsibility in this incident goes directly to his trustworthiness. It is evident that Claimant has breached that trust by attempting to influence the outcome of Foreman Brasher's investigation. We find that the discipline imposed was reasonable under the circumstances, notwithstanding the fact that Claimant had twenty-five years of service with the Carrier. We see no basis for modifying the discipline in any manner.

AWARD: Claim denied.

  
Barry E. Simon  
Chairman and Neutral Member

  
Ryan Hidalgo  
Employee Member

  
Tim R. Wyatt  
Carrier Member

Dated: September 7, 2016  
Arlington Heights, Illinois