

PUBLIC LAW BOARD NO. 7544

Brotherhood of Maintenance of Way)	
Employees Division - IBT)	
Rail Conference)	
)	
and)	Case No. 47
)	Award No. 47
)	System File No. D-43-16-445-16
)	
SOO Line Railroad Company (CP))	

Background

On April 19, 2016, the Carrier issued to Claimant N. Loranger a notice of formal investigation and hearing. The notice stated, in part, the following:

"The purpose of this investigation/hearing is to determine the facts and circumstances and to place responsibility, if any, in connection when you allegedly took an unauthorized extended break on April 18, 2016 in Wadsworth, IL. This indicates a possible violation of, but is not limited to, the following rules:

GCOR 1.13 - Reporting and Complying with Instructions

GCOR 1.15 - Duty-Reporting or Absence"

The investigation/hearing convened, as scheduled, on May 6, 2016, wherein Claimant and his representative were afforded the opportunity to present testimony and other evidence as well as examine the Carrier's witness and four (4) exhibits.

On May 16, 2016, the Assistant Director Production - South notified Claimant that the record of the investigation/hearing established Claimant's rules violations as charged. Based on the rules violations, severity of the incident and Claimant's past disciplinary record, he was assessed a ten (10) day suspension with five (5) workdays or forty (40) hours served and five (5) workdays held in abeyance. Should Claimant incur another rule infraction during the next twenty-four (24) months, the 5-day suspension held in abeyance would be served as an actual suspension.

On July 11, 2016, the Organization and the Carrier agreed to progress Claimant's discipline dispute for resolution before this Board using the shortened procedure provided for in Paragraph (K) of the PLB Agreement.

Findings

Public Law Board No. 7544, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Consistent with the PLB Agreement for this Board, the evidentiary record in this proceeding is comprised of the following: (A) notice of investigation, (B) transcript of investigation and all related exhibits, (C) discipline assessment letter and (D) on-property correspondence related to progression of the claim.

On April 18, 2016, Claimant was on the P-2 tie crew which cleared the main track at 11:30 a.m. Claimant was observed by the Work Equipment Supervisor heading to his personal vehicle. The Supervisor determined that Claimant remained in his vehicle more than thirty (30) minutes; an authorized break is twenty (20) minutes paid or thirty (30) minutes unpaid; employees are not authorized to set in their personal vehicles during breaks. The Supervisor approached Claimant's vehicle from the rear and observed Claimant in the front seat with the seat reclined. The Supervisor tapped on the window, startling Claimant. In response to the Supervisor's question, Claimant stated he was taking a break. The Work Equipment Supervisor and Claimant met with Claimant's immediate supervisor, the Assistant Roadmaster (AR), whereupon the AR informed the Work Equipment Supervisor that Claimant had been instructed to knock anchors for another crew after the P-2 tie crew cleared the main track. Claimant did not comply with the AR's instruction and, instead, took an unauthorized break.

Claimant's conduct violates GCOR 1.13, Reporting and Complying with Instructions, and GCOR 1.15, Duty - Reporting or Absence. Given these findings, the Carrier's decision to assess discipline to Claimant is not arbitrary or an abuse of discretion. Accordingly, the discipline remains undisturbed and the claim is denied.

Award

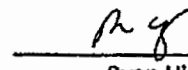
Claim denied.



Patrick Halter
Neutral Member



Anthony Mosso
Carrier Member



Ryan Hidalgo
Organization Member

Dated on this 24th day
of July 2018