

**Brotherhood of Maintenance of Way
Employees Division - IBT
Rail Conference**

Case No. 64
Award No. 64
System File No. D-187-16-445-97

Background

"The purpose of this investigation is to determine the facts and circumstances and to place responsibility, if any, in connection with your alleged failure to enter time for the Minot Welding Crew in a timely manner per the direction of your supervisor on October 3rd, 2016. This indicates a possible violation of, but is not limited to, the following rules:

On October 18, 2016, the formal investigation and hearing convened wherein Claimant and his representative were afforded the opportunity to present testimony and other evidence as well as examine the Carrier's witness and two (2) exhibits.

On December 12, 2016, the Organization and the Carrier agreed to progress Claimant's discipline dispute for resolution before this Board using the abbreviated 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.

At the outset of the hearing, the Organization objected to the Carrier's recordation of the proceeding with the transcriptionist located at an off-site, remote location. The Board finds the transcript of the proceeding complete and accurate which is sufficient for the Board to render a decision.

On October 3, 2016, the Roadmaster attempted to approve the electronic time records for Claimant and a co-worker on the welding crew. The Roadmaster discovered that for sixteen (16) calendar days or ten (10) workdays during the period of September 15 - October 3, Claimant had not entered time for himself or the co-worker although he had a record of their time in his book. Claimant states that entering time in the electronic system is not complicated, consumes five (5) to ten (10) minutes and he had access to a computer. Claimant, a Welder Foreman, is responsible for entering the crew's time in a timely manner, that is, daily or at least several times a week. The Roadmaster has communicated that expectation to foremen including Claimant who has met that expectation in the past but did not meet the expectation in this situation.

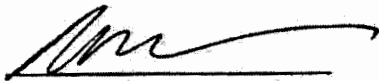
The Board finds there is substantial evidence to support the Carrier's position that Claimant violated GCOR 1.13, Reporting and Complying with Instructions. The 30-day deferred suspension is corrective. The Board finds, however, that the Carrier's disqualification of Claimant from his Foreman position and prohibition on Claimant from bidding on Track Inspector Group 1 or Track Foreman Group 2(a) for two (2) years is punitive and not corrective. Therefore, the disqualification and prohibition are rescinded.

Award

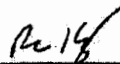
Claim sustained in part in accordance with the findings.



Patrick Halter
Neutral Member



Anthony Mosso
Carrier Member



Ryan Hidalgo
Organization Member

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Dated on this 5th day
of JAN. 2018