

**PUBLIC LAW BOARD NO. 7544**

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

**and**

**SOO Line Railroad Company (CP)**

**Case No. 74**  
**Award No. 74**  
**System File No. D-14-17-445-07**

## Background

On February 28, 2017, the Carrier Issued to Claimant L. Camacho a notice of formal investigation and hearing. The notice stated, in part, the following:

**"The purpose of the investigation and hearing is to develop all the facts and place responsibility, if any, in connection with your alleged failure to not have sight distance chart filled out and also not having A-orders and not filling out pre trip green book on February 6<sup>th</sup>, 2017. This indicates a possible violation of, but is not limited to, the following rules:**

- **OTS 29.5 - Responsibilities of Lookouts**
- **OTS 30.0 - Job Briefing**
- **ES Safety Rule Core 7 - Vehicles, Materials, Equipment and Tools**
- **OTS 20.22 - General Orders"**

On March 2, 2017, the investigation and hearing convened wherein Claimant and his representative presented testimony and two (2) exhibits and examined the Carrier's witness and five (5) exhibits.

On March 16, 2017, the Senior Track Manager issued a decision letter to Claimant stating that the record of the proceeding established Claimant's rules violations as charged. The March 16, 2017 decision letter stated the following:

**"Based on the facts and evidence in the hearing record, the severity of the incident, and your past discipline history, this incident could warrant your dismissal. However, solely as a matter of managerial leniency, and strictly on a 'last chance' basis, you are hereby assessed discipline of twenty (20) days actual suspension to be served. The time served will be determined by your manager.**

**This is your last chance to demonstrate your understanding of the Company's Rules, Policies and Guidelines and that you are willing and able to comply with them. Any future proven violation of Company Rules, Policies or Guidelines may be subject to disciplinary action and may result in your dismissal."**

On April 16, 2017, 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 Employee 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 off-site as this can result in an inaccurate and incomplete record. The Organization requests that the transcriptionist be physically present to record the proceedings. The Board finds the transcript of the proceeding complete and accurate which is sufficient for this tribunal's use in rendering a decision.

On February 6, 2017, the Roadmaster observed a three (3) man crew standing behind a truck aside from the tracks. Claimant was the Employee in Charge (EIC); the crew was preparing to lubricate switches. Claimant also served as the lookout to provide track protection for the crew. The Roadmaster reviewed the job briefing book; it was incomplete as required employee signatures were missing. Claimant acknowledged he was unsure how to complete the lookout chart in the book. The chart requires unobstructed site distance, track class and track speed to ensure sufficient time for employees to clear the track. The incomplete briefing book and chart violated OTS 30.1, Conducting a Job Briefing, and OTS 29.5, Responsibilities of Lookouts.

The Roadmaster asked to review the general orders; Claimant did not have general orders which are required papers containing mandatory directives about track conditions. Claimant was unsure whether A-orders were in the truck. The Roadmaster looked at the truck's records; the green book vehicle inspection (walk around inspection log book) was not filled out. This violates OTS 20.2.2, Change of a Rule, General Order, or Special Instructions and ES Safety Rule Core 7 - Vehicles, Materials, Equipment and Tools.

The Roadmaster showed Claimant how to complete the green book, job briefing book and site distance chart; Claimant was receptive to the instruction. Prior to the incident date, Claimant was present during an informational discussion presented by a Federal Railroad Administration (FRA) representative on expectations for lookouts, train detection, site distance chart and knowing speed of track.

The Board finds there is substantial evidence in support of the Carrier's decision to assess discipline to Claimant and the level of discipline assessed reflects a consideration of the Organization's defenses and Claimant's responses. Since the discipline is not arbitrary or an abuse of discretion, the Board will deny the claim.

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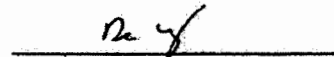
Claim denied.



Patrick Halter  
Neutral Member



Anthony Mosso  
Carrier Member



Ryan Hidalgo  
Organization Member

Dated on this 5<sup>th</sup> day  
of Jan., 2018