

PUBLIC LAW BOARD NO. 7544

Brotherhood of Maintenance of Way Employees Division - IBT Rail Conference

and

SOO Line Railroad Company (CP)

Case No. 76
Award No. 76
System File No. D-197-16-445-102

Background

On October 14, 2016, the Carrier issued to Claimant L. Radsek 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 facts and circumstances and place responsibility, if any, in connection with your alleged use of a Blue Tooth device to accept and take part in a phone conversation while operating a hirail vehicle as well as using partially pre-filled Track and Time forms on the River Subdivision on October 11, 2016. This indicates a possible violation of, but is not limited to, the following rules:

- **Policy on Use of Electronic Devices, Policy H&S 4320**
- **GCOR 2.14 Copying Track Warrants"**

On November 7, 2016, the investigation and hearing convened wherein Clamant and his representative were afforded the opportunity to present testimony and other evidence and examine the Carrier's witness and nine (9) exhibits.

On November 21, 2016, the Assistant Chief Engineer - St. Paul issued a decision letter stating that the record of the proceeding established Claimant's violations of the following:

- **Policy on Use of Electronic Devices, Policy H&S 4320**
- **GCOR 2.21 Part C Electronic**
- **U.S. On Track Safety Rules 29.1 Part E**
- **Engineering Safety Rule Book Part 6 Subpart E**

Based on the evidentiary record, severity of the incident, and Claimant's disciplinary history, the Carrier dismissed Claimant from service effective immediately.

On December 20, 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

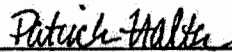
Public Law Board No. 7544, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of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

Following the investigative hearing and the Carrier's issuance of a decision letter, the Organization and Carrier resolved this claim. Given that finding, the Board will dismiss the claim.

Award

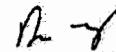
Claim dismissed.



Patrick Halter
Neutral Member



Anthony Mosso
Carrier Member



Ryan Hidalgo
Organization Member

Dated on this 5th day of
January, 2018