

**PUBLIC LAW BOARD NO. 7585**

**Case No. /Award No. 60**  
**Carrier File No.: 10-15-0309**  
**Organization File No.: C-15-D070-9**  
**NMB 119**  
**Claimant: C. Buckridge**

-----  
**BNSF RAILWAY COMPANY** )  
**(former Burlington Northern Railroad Company)** )  
 )  
**-and-** )  
 )  
**BROTHERHOOD OF MAINTENANCE** )  
**OF WAY EMPLOYES DIVISION - IBT** )  
-----

**FACTS:**

Claimant was dismissed after being found guilty of using an electronic device while operating a vehicle on May 7, 2015. At the time, he was under a record suspension for using a cell phone and not wearing a seat belt while operating a Company vehicle in February of the same year.

**CARRIER POSITION:**

On May 7, 2015 Claimant braked sharply when he came too close to a vehicle. He was distracted by his laptop and DriveCam picked up the sudden braking. It shows his hands in the area where his laptop docking station would be. His speed was 27.5 to 28.4 mph before he braked. He admitted the incident, meaning the Organization is simply asking for unwarranted leniency.

**ORGANIZATION POSITION:**

The Organization protests that it was sent a "Draft Copy" of the dismissal letter on July 17 rather than an official letter of dismissal. It notes Roadmaster Michael Paz entered evidence into the record before he was identified as a witness. In its view these were due process violations. It further notes that no laptop was visible in any of the DriveCam pictures, much less shown to be in use. Paz could only state that it "appeared that Claimant was using his computer." In the Organization's view, this record is inadequate to establish substantial evidence.

**DECISION:**

The Board is not persuaded that Claimant's case has been prejudiced by procedural error.

As to the adequacy of the evidence of record, the Board notes the following testimony:

CASON COLE: Okay. So the screen, uh, I assume that the screen was open, you you, while you were using the.

CHRISTOPHER J BUCKRIDGE: Yes.

CASON COLE: The, uh, laptop. Okay. TR 19

\* \* \*

CASON COLE: Would you say that, uh, I guess encroaching on the, on the vehicle in front of you, having to brake suddenly, was that, uh, would you say that that was a result of distracted driving due to using the laptop while operating the vehicle? Or, it played a large part in that?

CHRISTOPHER J BUCKRIDGE: Uh, a very large part, yeah. TR 20

\* \* \*

JIM VARNER: And, you are not denying you were not, that you were on a laptop computer.

CHRISTOPHER J BUCKRIDGE: Uh, no, I am not denying that.

JIM VARNER: And, you know that, that it was a rules violation?

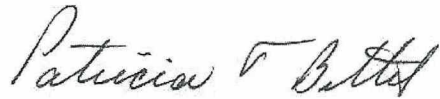
CHRISTOPHER J BUCKRIDGE: Um, yes, I do. TR 21

This evidence establishes that Claimant was using his laptop computer while operating a Company vehicle in violation of applicable rules, and that this distraction required him to brake suddenly. The testimony is sufficient to meet the Carrier's burden of proof.

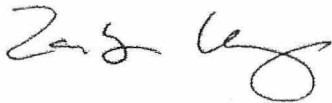
**AWARD:**

The claim is denied.

November 29, 2017; Park City, Utah



Patricia T. Bittel, Neutral Member



Zachary Voegel, Organization Member



Zahn Reuther, BNSF Member