

PUBLIC LAW BOARD NO. 7585

Case No. /Award No. 76
Carrier File No.: 10-17-0269
Organization File No.: C-17-D040-24
Claimant: A. E. Troxel II

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

STATEMENT OF CLAIM:

The Organization alleges BNSF violated the Agreement when Claimant was issued a Level S, 30-day record suspension and a one-year probation as a result of a formal investigation held on June 8, 2017, for Claimant's violation of MWOR 6.3.1 "Main Track Authorization" and MWOR 15.2 "Protection by Track Bulletin Form B" for his entering of Form B limits without contacting the EIC in charge of Form B, which resulted in an Authority Violation while assigned as a Track Inspector at approximately 1000 hours, Friday, May 5, 2017 at MP 193.630 on the St. Joseph Subdivision.

CARRIER POSITION:

On May 5, 2017, Claimant was assigned as a Track Inspector operating a pickup truck equipped with a hy-rail device. Claimant knew that co-worker Bartels had a Form B (which would require Claimant to get permission prior to setting on the track), but instead of calling Bartels to verify his authority, Claimant assumed that Bartels' Form B matched his Track and Time authority. It did not.

Claimant set on the track and began travelling to his Track and Time authority. Looking up, he noticed several employees working on the track that he was travelling on. He stopped without incident.

During the investigation he admitted that he did not get permission into the Form B until after he saw the work group, and that he set inside the limits. In the Carrier's

assessment, this constituted a clear admission of guilt, giving it ample grounds for discipline.

ORGANIZATION POSITION:

In the Organization's assessment, there were mitigating circumstances. There were long delays and continuous attempts and moves to get to a segment of track that the dispatcher would allow Claimant to inspect. Furthermore, Claimant became confused and thought his Track Authority had the same limits as the Form B. No one was endangered by the incident and Claimant was truthful at every turn. The Organization concludes that the discipline was unreasonably harsh.

DECISION:

The Board is not persuaded that the mitigating circumstances cited by the Organization operate to lessen the nature of the offense herein concerned. Claimant was operating a vehicle on the tracks and was responsible to make sure that he had the proper authority to do so. He knew Bartels had a Form B but failed to verify that it matched his Track and Time authority. This constituted an act of negligence that simply cannot be ignored. It resulted his occupying track with a work group, a situation that the Carrier had every right to view as serious.

AWARD:

The claim is denied.

May 1, 2019



Patricia T. Bittel, Neutral Member



Zachary Voegel, Labor Member



James Rhodes, Carrier Member