

BEFORE PUBLIC LAW BOARD NO. 7602

CASE NO. 95

**BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYES DIVISION**

vs.

BNSF RAILWAY COMPANY

NMB Case No. 119

Award No. 95

Organization No. S-P-2271-G

Carrier No. 11-19-0484

STATEMENT OF CLAIM

The Organization alleges that BNSF violated the Agreement when Claimant was disciplined for violating EI 14.3.3 “Maintaining Roadway Equipment”, MWOR 11.2 “Requirements for Operating Roadway Machines” and MWOR 6.50.3 “Equipment Components Clear” for his Lock-Up Pin Up failure that occurred on April 9, 2019 at approximately 1200 at Engine Track/Hanford Street, MP 1.45, at Seattle, Washington, while working as a Group $\frac{3}{4}$ Machine Operator on Gang TTPX0041, when machine 440324, that he was operating, traversed a switch without being properly locked and pinned up resulting in \$1000 damage.

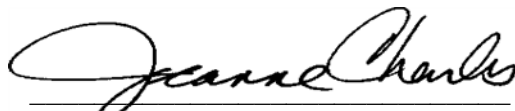
FINDINGS AND OPINION

The Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties’ PLB Agreement and that the Board has jurisdiction over the dispute.

In reaching its decision, the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. A careful review of the record convinces the Board that there is substantial evidence in the record to uphold the Carrier’s determination to dismiss Claimant T. Scott. Claimant was under review for a safety violation (lock/out tagout) at the time. The Carrier’s discipline policy calls for dismissal for a subsequent serious violation. There were no mitigating circumstances that warrant a reduction in the penalty. Given these facts, it was not unreasonable for the Carrier to dismiss Claimant. The discipline assessed by the Carrier was neither arbitrary, excessive nor harsh under the facts and circumstances of this record and will therefore not be disturbed by this Board.

AWARD

Claim denied.



Jeanne Charles

Chairman and Neutral Member

Zach Hutto

Carrier Member

Dated:

PLB No. 7602

Award No. 95

Zach Hutto

Labor Member

Dated: November 17, 2021