

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad
(Former Missouri Pacific Railroad)

Case No. 100
Award No. 100

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The discipline (first offense attendance violation) imposed on Mr. T. Arline, by letter dated June 1, 2017, for alleged violation of the Union Pacific Railroad Attendance Policy in connection with charges that he failed to protect his employment on a full time basis when he was absent on May 16, 2017 was without just and sufficient cause and in violation of the Agreement (System File UP522JF17/1687940 MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant T. Arline must have all charges dismissed, the discipline removed from his record and compensated for all losses suffered as a result of the Carrier's unjust discipline."

FINDINGS:

Public Law Board No. 7633, upon the whole record and all the evidence, finds the parties involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction of the dispute herein; the parties were given due notice of hearing before this Board and they participated therein.

The Claimant was disciplined pursuant to a Notice of Investigation dated May 17, 2017, Investigation held May 24, 2017, "... to develop the facts and determine your responsibility, if any, in connection with your alleged violation of the Union Pacific Railroad Attendance Policy. While employed as a/an M/O (Tlh) Back Hoe with Union Pacific Railroad, you allegedly absented yourself on 05/16/2017. If such charges are proven, you may be assessed a FIRST OFFENSE ATTENDANCE violation of the Union Pacific Railroad Attendance Policy."


In a discipline letter dated June 1, 2017, the Carrier found that "... after carefully considering the evidence adduced at the hearing, I find that the following charges against you have been sustained: While employed as a/an M/O (Tlh) Back Hoe with Union Pacific Railroad, you failed to protect your employment on a full time bases through frequent or pattern layoffs and/or failure to report for service by absenting yourself on 05/16/2017. This conduct is a violation of the Union Pacific Railroad's Attendance Policy and constitutes a **first** violation of the Union Pacific Railroad Attendance Policy. Therefore, you are hereby notified that a First Offense violation is being recorded on your personal record."

The Organization appealed the discipline and the Carrier denied the appeals. The dispute was not resolved during a settlement conference and progressed to arbitration. This matter is now before the Board for final and binding resolution. The Board has carefully reviewed the entire record in this case, including the arguments and awards provided in support of the parties' respective positions, whether or not specifically addressed herein.

There is substantial evidence in the record to uphold the Carrier's discipline determination. The Organization's defenses are not persuasive. The discipline assessed by the Carrier was not arbitrary, capricious, or an abuse of discretion under the facts and circumstances of this record. Therefore, it will not be disturbed by this Board.

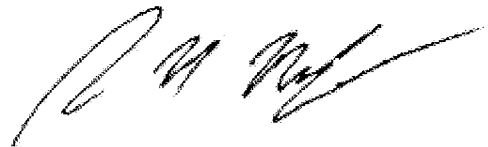
AWARD:

Claim denied.


Robert Grey
Neutral Member
Dated: March 28, 2019



Katheirne Novak
Carrier Member



Andrew Mulford - 3/28/19
Organization Member