

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad
(Former Missouri Pacific Railroad)

Case No. 104
Award No. 104

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

1. The Carrier's discipline (dismissal) of Mr. J. Racey, by letter dated June 26, 2017, for alleged violation of the UPRR Drug and Alcohol Policy and GCOR Rule 1.5: was unwarranted, arbitrary and in violation of the Agreement (System File UP525JF17/1690100 MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Racey shall be immediately returned to service, have all mention of the charges and discipline removed from his personal record, provided with all lost compensation (i.e., straight time, overtime, holiday pay, vacation pay and hours and mileage for attending his investigation) and afforded all other rights and benefits contemplated by Rule 22."

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 June 2, 2017, Investigation held June 13, 2017, "... to develop the facts and determine your responsibility, if any, in connection with your alleged violation of the Union Pacific Railroad Drug and Alcohol policy as described: You allegedly refused a UP Reasonable Cause test. The test was administered to you in accordance with Union Pacific Railroad (UPRR) Drug and Alcohol Policy June 01, 2017 at 225 West N. Main St, Flatonia, TX while you were working as a Ballast Regulator Operator. This is a possible violation of the following rule(s) and/or policy: 1.6:

Conduct – Insubordinate; 1.5: Drugs and Alcohol. If proven, this would be in violation of the UPRR Drug and Alcohol Policy and General Code of Operating Rules (Rule 1.5). Please be advised that if you are found to be in violation of this alleged charge, the assessment under the MAPS policy may be permanent dismissal.”

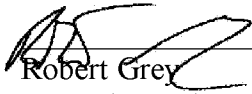
In a discipline letter dated June 26, 2017, the Carrier found that “... the following charges against you have been sustained: You refused a UP Reasonable Cause test. The test was administered to you in accordance with Union Pacific Railroad (UPRR) Drug and Alcohol Policy June 01, 2017 at 225 West N. Main St, Flatonia, TX while you were working as a Ballast Regulator Operator. Assessment for violation of the UPRR Drug and Alcohol Policy and General Code of Operating Rules (Rule 1.5), according to the MAPS Policy, is permanent dismissal. Effective immediately, you are hereby dismissed from all service with the Union Pacific Railroad.”

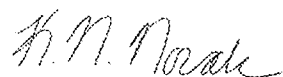
The Organization appealed the discipline and the Carrier denied the appeals. The dispute was not resolved during a settlement conference and progressed to arbitration. This matter is now before the Board for final and binding resolution. The Board has carefully reviewed the entire record in this case,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

In Award No. 103, for Case No. 103, this Board upheld the Carrier’s discharge of Claimant for his culpable conduct in the collision which underlies the discipline and claim in this case (*i.e.*, Case No. 104). Therefore, the Board denies the claim in Case No. 104 as moot.

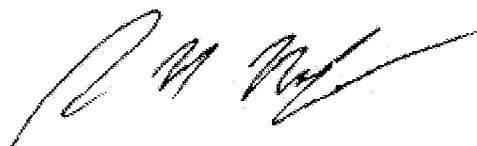
AWARD:

Claim denied.


Robert Grey
Neutral Member
Dated: March 28, 2019



Katheirne Novak
Carrier Member



Andrew Mulford - 3/28/19
Organization Member