

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employes Division - IBT

and

Union Pacific Railroad
(Former Missouri Pacific Railroad)

Case No. 105
Award No. 105

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

1. The Carrier's discipline (MAPS Training 1) of Mr. R. Carter, by letter dated July 19, 2017, for alleged violation of Rule 136.4 On-Track Safety Procedures was unwarranted, arbitrary and in violation of the Agreement (System File UP528JF17/1691488 MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant R. Carter shall 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 23, 2017, Investigation held June 29, 2017, "... to develop the facts and determine your responsibility, if any, in connection with the below charge. On 06/08/2017, at the location of Houston, TX, near Milepost 179.38, Katy Eureka Industrial Lead at approximately 16:30 hours, while employed as a M/O (The) Tie Cr, you allegedly entered an active RCL zone without permission from the RCL operator. This is a possible violation of the following rule(s) and/or policy: 136.4: On-Track Safety Procedures. Under the MAPS Policy, this violation is a Critical event. Based upon your current status, if you are found to be in violation of this alleged charge, Training 1 may result."


In a discipline letter dated July 19, 2017, the Carrier found that "... the evidence more than substantially supports the charges against you. The following charge has been sustained: On 06/08/2017, while employed as a M/O (The) Tie Cr, you entered an active RCL zone without permission from the RCL operator. This is a violation of the following rule(s) and/or policy: 136.4: On-Track Safety Procedures. Based on your current record, your assessed MAPS status is now in Training 1. You are required to participate and successfully complete MAPS Training 1 and any additional training assigned in connection with this violation."

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.

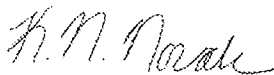
The Board finds that there is not substantial evidence in the record to uphold the Carrier's determination of culpability.

AWARD:

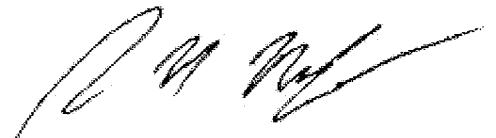
Claim sustained. The discipline is to be removed as requested. Claimant is to be compensated for straight time lost, if any. The Carrier is ordered to make the Award favorable to the Claimant effective on or before 30 days following the date below.



Robert Grey
Neutral Member
Dated: March 28, 2019



Katheirne Novak
Carrier Member



Andrew Mulford - 3/28/19
Organization Member

