

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad
(Former Missouri Pacific Railroad)

Case No. 107
Award No. 107

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

1. The Carrier's discipline (dismissal) of Mr. M. Woolridge, by letter dated July 6, 2017, for alleged violation of Rule 1.6: Conduct - Negligent, Rule 42.2.2: Other Speed Requirements and Rule 1.13: Reporting and Complying with Instructions was unwarranted, arbitrary and in violation of the Agreement (System File UP526JF17/1690511D MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant M. Woolridge 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 14, 2017, Investigation held June 28, 2017, "... to develop the facts and determine your responsibility, if any, in connection with the below charge. On 06/01/2017, at the location of Flatonia, TX, near Milepost 120.0, Glidden Subdivision, at approximately 05:40 hours, while employed as a M/O (Br) Bal Reg, you allegedly were negligent when you failed to control the set of machines you were responsible for, resulting in an on track collision. This is a possible violation of the

following rule(s) and/or policy: 1.6: Conduct – Negligent; 42.2.2: Other Speed Requirements; 1.13: Reporting and Complying with Instructions. Additionally, **Rule 1.6: Conduct** stipulates that any act of hostility, misconduct, or willful disregard or negligence affecting the interest of the company or its employees is cause for dismissal and must be reported. Indifference to duty or to the performance of duty will not be tolerated. Under the MAPS Policy, this violation is a Dismissal event. Based upon your current status, if you are found to be in violation of this alleged charge, Dismissal may result.”

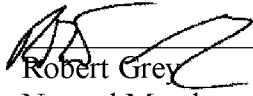
In a discipline letter dated July 6, 2017, the Carrier found that “... the evidence more than substantially supports the charges against you. The following charge has been sustained: On 06/01/2017, while employed as a M/O (Br) Bal Reg, you were negligent when you failed to control the set of machines you were responsible for, resulting in an on track collision. This is a violation of the following rule(s) and/or policy: 1.6: Conduct – Negligent; 42.2.2: Other Speed Requirements; 1.13: Reporting and Complying with Instructions. Additionally, **Rule 1.6: Conduct** stipulates that any act of hostility, misconduct, or willful disregard or negligence affecting the interest of the company or its employees is cause for dismissal and must be reported. Indifference to duty or to the performance of duty will not be tolerated. Based on your current record, you are hereby dismissed from all service with the Union Pacific Railroad.”

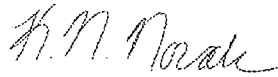
The Organization appealed the discipline and the Carrier denied the appeals. The dispute was not resolved during a settlement conference and progressed to arbitration. This matter is now before the Board for final and binding resolution. The Board has carefully reviewed the entire record in this case,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

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

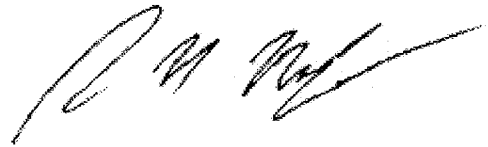
AWARD:

Claim sustained. In accordance with Rule 22, this includes straight time, vacation, health and welfare benefits and railroad retirement. 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