

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Case No: 109

Award No: 109

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

1. The Carrier's discipline (MAPS Training 1 and additional training) of Mr. R. Holland, by letter dated September 8, 2017, for alleged violation of Rule 1.13: Reporting and Complying with Instructions was unwarranted, arbitrary and in violation of the Agreement (System File UP533JF17/1693297 MPR).
2. As a consequence of the violation referred to in Part 1 above, the Carrier shall remove all mention of the charges or discipline from Claimant R. Holland's record. The Carrier shall also compensate Claimant for any and all lost time at his respective straight time rate of pay and any and all overtime that has been performed by his assigned gang at his respective overtime rate of pay as well as any and all expenses including meals, lodging and mileage."

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 July 13, 2017, Investigation held July 20, 2017, *"to develop the facts and determine your responsibility, if any, in connection with the below charge. On 07/07/2017, at the location of Abilene, TX, near Milepost 406.5, Baird Subdivision, at approximately 02:27 hours, while employed as a Trk Sys Trackman, you allegedly failed to comply with verbal instructions by Supervisor Jose V Gonzalez to complete your CBT, though, you have received coaching on numerous occasions regarding*

Rule 1.3.1. This is a possible violation of the following rule(s) and/or policy: 1.13: Reporting and Complying with Instructions. 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 August 8, 2017, the Carrier found that “the evidence more than substantially supports the charges against you. The following charge has been sustained: On 07/07/2017, while employed as a Trk Sys Trackman, you failed to comply with verbal instructions by Supervisor Jose V Gonzalez to complete your CBT, though, you have received coaching on numerous occasions regarding Rule 1.3.1. This is a violation of the following rules(s) and/or policy: 1.13: Reporting and Complying with Instructions. 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.

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.

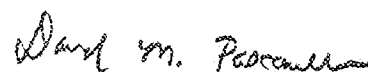


Robert Grey
Neutral Member

Dated: October 23, 2019



Derek Hinds
Carrier Member



David M. Pascarella
Organization Member