

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: 118
Award No: 118

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

1. The Carrier's discipline (dismissal) of Mr. J. Hollins, by letter dated February 9, 2018, for alleged violation of the Union Pacific Railroad's Attendance Policy was unwarranted, arbitrary and in violation of the Agreement (System File UP504JF18/1703016 MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Hollin's discipline shall be set aside, he shall be returned to service with rights and benefits unimpaired and he shall be made whole for all financial and benefit losses suffered as a result of the discipline, including vacation, retirement and all straight time, overtime worked by his gang, holiday pay and out of pocket medical payments."

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 January 24, 2018, Investigation held February 1, 2018, "*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 (Aasq) Anch Sq with Union Pacific Railroad, you allegedly failed to protect your employment on a full time basis through frequent or pattern layoffs and/or failure to report for service between 01/15/2018 and 01/15/2018. If such charges*

are proven, you may be assessed a THIRD OFFENSE ATTENDANCE violation of the Union Pacific Railroad Attendance Policy.”

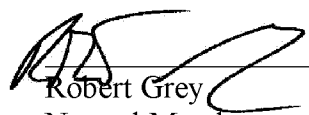
*In a discipline letter dated February 12, 2018, the Carrier found that “the following charges against you have been sustained: While employed as a/an M/O (Aasq) Anch Sq with Union Pacific Railroad, you failed to protect your employment on a full time basis through frequent or pattern layoffs and/or failure to report for service between 01/15/2018 and 01/15/2018. This conduct is a violation of the Union Pacific Railroad’s Attendance Policy and constitutes a **Third** Offense violation of the Union Pacific Railroad Attendance Policy. Therefore, 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.

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.

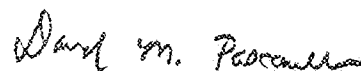


Robert Grey
Neutral Member

Dated: October 23, 2019



Derek Hinds
Carrier Member



David M. Pascarella
Organization Member