

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. 162
Award No. 162

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

1. The Carrier's discipline (MAPS Status Training 1) of Mr. B. Griffis, by letter dated October 7, 2019, for alleged violation of Rule 1.13: Reporting and Complying with Instructions was excessive, arbitrary, disparate, imposed without the Carrier having met its burden of proof and in violation of the Agreement (System File UP709SN19D /1731260 MPR).
2. As a consequence of the violation referred to in Part 1 above, we are requesting:

'... that all vacation and seniority rights unimpaired, that the charge and discipline MAPS status Training 1, issued per letter of September 10, 2019 from Mgr 1 Track Mntce Adjamoussi Adje, resultant investigation held September 19, 2019, be removed from his personal record, that he be made whole for all time lost due to discipline issued in connection with these charges, and that he be reimbursed for any additional expenses, including those requested in the September 19, 2019 hearing, incurred that would have normally been covered by Carrier benefits, account the Carrier violated Rule 22, of our Agreement.' (Employees' Exhibit 'A-2')."

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 September 10, 2019, Investigation held September 19, 2019, "... to develop the facts and determine your responsibility, if any, in connection with the below charge. On 08/26/2019, at the location of Pottsboro, TX, near Milepost 668.4,

CHOCTAW Subdivision, at approximately 13:00 hours, while employed as a M/O (Ats) Tamper, you allegedly On 8-23-19 did not remove yellow board @ MP 672.5 for northbound train after voiding a surface order, while working on Surfacing Gang 8804. Also on Monday 8-26-19 the same surfacing gang 8804 failed to comply with instruction and did not remove the yellow board @ MP 668.4 for southbound train after voiding a slow order 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 October 7, 2019, the Carrier found that “... the evidence more than substantially supports the charges against you. The following charge has been sustained:

On 08/26/2019, while employed as a M/O (Ats) Tamper, you On 8-23-19 did not remove yellow board @ MP 672.5 for northbound train after voiding a surface order, while working on Surfacing Gang 8804. Also on Monday 8-26-19 the same surfacing gang 8804 failed to comply with instruction and did not remove the yellow board @ MP 668.4 for southbound train after voiding a slow order This is a violation of the following rule(s) and/or policy:

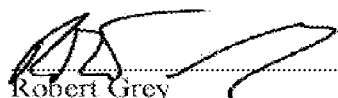

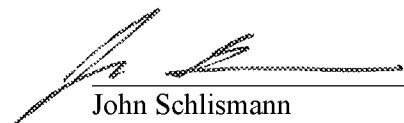
1.13: Reporting and Complying with Instructions.

Based on your current record, your assessed MAPS status is now 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. Due to the specific facts of record within this claim, the Board has determined the Organization’s arguments are persuasive, therefore, the Board sustains the claim. Claimant is to be removed from MAPS 1 status pertaining to this matter, and compensated for straight time lost, if any.

AWARD

Claim sustained. Claimant is to be removed from MAPS 1 status pertaining to this matter, and compensated for straight time lost, if any. The Carrier is directed to comply with this Award on or before 30 days following the date by which any two members of the Board have affixed their signatures hereto.


Robert Grey
Neutral Member
Christopher Bogenreif
Carrier Member
John Schlismann
Organization Member

May 18, 2022

Dated