

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employes Division - IBT Rail Conference

and

Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Case No. 168
Award No. 168

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

1. The Carrier's discipline (MAPS Training 1) of Mr. K. Conaway, by letter dated February 7, 2020, for alleged violation of Rule 74.5 Seat Belts was excessive, arbitrary, disparate, imposed without the Carrier having met its burden of proof and in violation of the Agreement (System File UP966PA19/1734773 MPR).
2. As a consequence of the violation referred to in Part 1 above, the Organization '... request that this violation be removed from Mr. Conaway's work history and that he would not have to attend any MAPS Training.' (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 January 20, 2020, Investigation held January 30, 2020, "... to develop the facts and determine your responsibility, if any, in connection with the below charge.

On 12/19/2019, at the location of El Paso, TX, near Milepost 822.0, Valentine Subdivision, at approximately 12:09 hours, while employed as a Trk Asst Fmn, you allegedly was operating a company work vehicle without using a seat belt. This is a possible violation of the following rule(s) and/or policy:

74.5: Seat Belts

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 February 7, 2020, the Carrier found that “... the evidence more than substantially supports the charges against you. The following charge has been sustained:

On 12/19/2019, while employed as a Trk Asst Fmn, you was operating a company work vehicle without using a seat belt. This is a violation of the following rule(s) and/or policy:

74.5: Seat Belts


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.

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.

AWARD

Claim denied.


Robert Grey
Neutral Member

Chris Bogenreif

Christopher Bogenreif
Carrier Member

A handwritten signature in dark ink, appearing to read 'John Schlismann', written over a horizontal line.

John Schlismann
Organization Member

October 27, 2022
Dated