

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT Rail Conference

and

Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Case No. 181
Award No. 181

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

1. The Carrier’s discipline (MAPS Training 1) of Mr. R. Owens, by letter dated June 19, 2020, 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 UP712SN20D/1741167 MPR).
2. As a consequence of the violation referred to in Part 1 above, the Organization requests that the Claimant’s discipline of MAPS status Training 1:

‘... 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 June 06, 2020, 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 March 27, 2020, Investigation held June 9, 2020, “... to develop the facts and determine your responsibility, if any, in connection with the below charge.

On 03/16/2020, at the location of Marshall, TX, near Milepost 350.0, Reiser Subdivision, at approximately 16:00 hours, while employed as a Welder, you allegedly failed to follow instructions when you were instructed to pick up borrowed gang truck from Longview, TX and drop it off at Marshall Depot. Instead you left the truck in Jefferson, TX overnight. 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 June 19, 2020, the Carrier found that “... the evidence more than substantially supports the charges against you. The following charge has been sustained:

On 03/16/2020, while employed as a Welder, you failed to follow instructions when you were instructed to pick up borrowed gang truck from Longview, TX and drop it off at Marshall Depot. Instead you left the truck in Jefferson, TX overnight. 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.”

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 the Carrier proved some culpability, but not to the level of a MAPS 1 violation. Therefore, the penalty is reduced to a Conference.

AWARD

Claim sustained in accordance with the Findings. 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

Chris Bogenreif
Christopher Bogenreif
Carrier Member


John Schlismann
Organization Member

February 13, 2023
Dated