

Public Law Board No. 7633

PARTIES) **Brotherhood of Maintenance of Way Employes Division**
) **– IBT Rail Conference**
TO)
) **and**
DISPUTE)
)
) **Union Pacific Railroad Company (former Missouri Pacific**
) **Railroad Company)**

Members of Board:

Jeanne M. Vonhof, Chairman and Neutral Member
Chris Bogenreif, Carrier Member
John Schlismann, Employee Member

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

1. The Carrier’s discipline (dismissal) of Mr. J. Jones, by letter dated April 16, 2021, for an alleged violation of Rule 1.6: Conduct – Quarrelsome; Rule 1.6: Conduct – Discourteous; Item 10-I: Union Pacific Railroad Policies – Statement of Policy on Ethics and Business and Conduct – Critical; and additionally Rule 1.6 Conduct – which stipulates ‘... any act of hostility, misconduct, or willful disregard or negligence affecting the interest of the company or its employees is cause for dismissal and must be reported. Indifference to duty or to the performance of duty will not be tolerated.’ was exceedingly harsh, imposed without the Carrier having met its burden of proof and in violation of the Agreement (System File UP880BF21/1758123 MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Jones shall now be returned to work and be:

 ‘... made whole for all financial loses (sic) as a result of the alleged violation, including compensation for all wages lost, straight time and overtime, to be paid at the rate of position assigned at the time of removal of service, beginning with the day he was removed from service and ending with his

retirement date. This amount is not to be reduced by earnings from alternate employment, obtained by the claimant while wrongfully removed from service. This should also include any general lump sum payment or retroactive general wage increase provided in any applicable agreement that became effective while claimant was out of service. Any overtime needs to be included for the lost overtime opportunities for any position the claimant could have held during the time he was removed from service, or on overtime paid to any junior employee for work the claimant could have bid on and performed had he not been removed from service. Claimant be compensated for any and all losses related to the loss of fringe benefits that can result from dismissal from service, i.e., Health benefits for himself and his dependents, Dental benefits for himself and his dependents, Vision benefits for himself and his dependents, Vacation benefits, Personal Leave benefits and all other benefits not specifically enumerated herein that are collectively bargained for him as an employee of the Union Pacific Railroad and a member of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters. Claimant to be reimbursed for all losses related to personal property that he has now which may be taken from him and his family because his income has been taken from him. Such losses can be his house, his car, his land, and any other personal items that may be garnished from him for lack of income related to this dismissal.

In short, we herein make the demand that the Claimant be made "whole" for all losses related to his dismissal from service.

It is hereby stated that Mr. Jones be fully exonerated, and all notations of the dismissal be removed from all Carrier records.' (Employees' Exhibit 'A-2')."

Findings of the Board

The Board upon consideration of the entire record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended and that the Board has jurisdiction over this dispute.

The Claimant, John Jones, was provided with notice that he was being investigated to determine his responsibility for allegedly making threats against his immediate supervisor on 03/15/2021 at Carlinville, IL, at Milepost 224.0, Springfield Subdivision at approximately 1600 hours. The investigation was held on April 8, 2021, and, via letter dated April 16, 2021, the Claimant was dismissed. The Carrier concluded from the evidence provided at the investigation that the Claimant did make threats against his immediate supervisor. The Carrier further concluded that the Claimant violated MWOR 1.6 Conduct - Quarrelsome; MWOR 1.6 Conduct – Discourteous; and Item 10-I Union Pacific Railroad Policies – Statement of Policy on Ethics and Business Conduct – Critical. Based on these determinations and the language in 1.6, the Carrier dismissed the Claimant from service.

Award

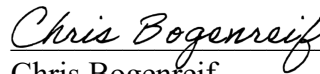
Claim dismissed as moot because the Claimant has been dismissed for earlier violations and his claim over that dismissal was denied as PLB 7633 Case No. 193.



Jeanne M. Vonhof
Neutral Board Member



John Schlismann
Employee Member



Chris Bogenreif
Carrier Member

Dated: July 11, 2024