

PUBLIC LAW BOARD NO. 7633

CASE NO. 227
AWARD NO. 227

Brotherhood of Maintenance of Way Employes
Division - IBT Rail Conference

and

Union Pacific Railroad Company
(former Missouri Pacific Railroad Company)

Claimant: D. Reason

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. D. Reason, by letter dated October 9, 2023, for an alleged violation of Rule 1.6: Conduct – Dishonest 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.’ (Employes’ Exhibit ‘A-1’) was exceedingly harsh, imposed without the Carrier having met its burden of proof and in violation of the Agreement (System File UP414RR23/1796194 MPR).
2. As a consequence of the violation referred to in Part 1 above, we request that Claimant D. Reason shall now be:

‘... allowed to return to work with all vacation and seniority rights unimpaired, that the charge and discipline, issued per letter of September 9, 2023 from Jason Rea, AVP Engineering Track & Renewal Mtnce., resultant investigation held September 14, 2023, be removed from each employees personal record, that each employee be made whole for all time lost due to discipline issued in connection with these charges, and that the employee be reimbursed for any additional expenses, including those requested in the August 14, 2023 hearing, incurred that would have normally been covered by Carrier benefits, account the Carrier violated Rule 22 of our Agreement.

* * *

... made whole for all financial losses 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 each Claimant was removed from service and ending with each Claimants retirement date. This amount is not to be reduced by earnings from alternate employment, obtained by each 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 each Claimant was out of service. Any overtime needs to be included for the lost overtime opportunities for any position each Claimant could have held during the time he was removed from service, or on overtime paid to any junior employee for work each Claimant could have bid on and performed had he not been removed from service. Each Claimant shall 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 Employes Division of the International Brotherhood of Teamsters. Each Claimant is 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 each Claimant be made “whole” for any and all losses related to his dismissal from service.

It is hereby stated that Mr. Reason be fully exonerated, and all notations of the dismissal be removed from all Carrier records. ***’ (Employes’ Exhibit ‘A-2’).”

Findings

This Board derives its authority from the Railway Labor Act, as amended, together with the applicable Agreement between the parties. After review of the record as developed on the property, the Board finds that the parties are Carrier and Employee within the meaning of the Act; that this dispute is properly before the Board; that the Board has jurisdiction over the parties and the subject matter; and that the parties were afforded due notice of the hearing.

Claimant Dane Reason entered Carrier's service on December 13, 2000. At the time relevant to this dispute, he was employed as a Track System Foreman and was responsible for submitting payroll information for his gang.

The record developed on the property shows that in August 2023, a Corporate Audit identified discrepancies in Claimant's payroll submissions. The audit revealed that Claimant paid himself overtime and per diem on August 8, 9, 10, and August 26, which were all scheduled rest days. No other members of the gang claimed time or per diem on those dates.

Following issuance of a Notice of Investigation charging a possible violation of Rule 1.6 – Conduct (Dishonest), a formal investigation was held on September 28, 2023. At its conclusion, the Carrier determined that the charge was sustained and dismissed Claimant from service. The Organization appealed, and the matter was progressed to this Board.

The Carrier maintains that dishonesty was proven by substantial evidence. It relies on payroll records showing that Claimant alone claimed overtime and per diem on rest days, that no corroborating work was performed, and that Claimant received payment to which he was not entitled. The Carrier argues that intent may be inferred from conduct and that repeated improper entries affecting only Claimant's pay cannot reasonably be characterized as inadvertent.

The Carrier asserts that the investigation was fair and impartial, that reliance on audit findings and payroll records was appropriate, and that the Organization was afforded the opportunity to question management witnesses. It further argues that dismissal was neither arbitrary nor excessive given.

The Organization contends that the Carrier failed to establish dishonest intent. It argues that the payroll entries resulted from mistake, system complexity, or misuse of the bulk-entry function rather than intentional misconduct. It emphasizes that Claimant acknowledged the errors, denied any intent to deceive, and cooperated fully during the investigation.

The Organization further asserts that Claimant performed work-related duties on the dates in question, including responding to calls and text messages, and argues that such activity undermines the Carrier's claim that no work was performed.

Procedurally, the Organization argues that the investigation was unfair. It contends that the Carrier relied on a Corporate Audit without producing auditors for cross-examination, improperly admitted hearsay evidence, failed to produce requested documentation, and questioned Claimant prior to the Notice of Investigation. It also asserts that Claimant was improperly withheld from service and that dismissal was excessive given his long service and lack of prior discipline.

The Carrier bears the burden of proving the charged misconduct by substantial evidence. That burden is satisfied where the record supports a reasonable conclusion that the employee knowingly claimed compensation to which he was not entitled. The record supports such a conclusion here.

Payroll records establish that Claimant submitted and was paid overtime and per diem on multiple scheduled rest days. The record evidence shows no other gang members claimed time on those dates. The improper entries were not isolated and affected only Claimant's compensation. Claimant acknowledged that the entries were incorrect and that he submitted time for days he did not work.

The Board finds no reason to determine Carrier's credibility determinations were unreasonable. It considered Claimant's explanations, including alleged system errors, bulk-entry mistakes, and asserted work activity via phone or text. These explanations do not account for the repeated nature of the entries or the receipt of overtime and per diem tied to days on which no qualifying work or travel occurred. Dishonesty may be established by conduct, and an express admission of intent is not required.

The Board has also carefully reviewed the Organization's procedural objections. The record reflects that Claimant received notice of the charge, was represented, and was afforded the opportunity to testify, present evidence, and challenge the Carrier's case. The Carrier's reliance on audit findings and payroll records does not, under these circumstances, render the investigation unfair or unreliable. Nor does the record support a finding that Claimant's temporary removal from service violated the Agreement.

Finally, while Claimant's length of service and prior record were considered, dishonesty constitutes a fundamental breach of trust. Arbitral precedent consistently recognizes dismissal as an appropriate penalty where such conduct is established. Progressive discipline is not required in cases involving proven dishonesty of this nature.

AWARD

The claim is denied. The discipline of dismissal assessed to Claimant Dane Reason is upheld.



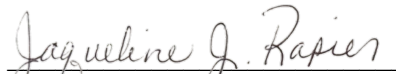
Deborah Gaines
Neutral Referee

Dated: March 2, 2026



Stephanie Mahaney
Carrier Member

Dated: March 4, 2026



Jaqueline J. Rapier
Labor Member

Dated: March 4, 2026