

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad
(Former Missouri Pacific Railroad)

Case No. 75
Award No. 75

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s disqualification of Mr. G. Edwards from the machine operator position, by letter dated November 20, 2015, constituted a violation of the Agreement (System File UP548JF15/1645759 MPR).
2. As a consequence of the violation referred to in Part 1 above, the Carrier must remove the unjust disqualification from Claimant G. Edward’s record and provide him with the ‘... difference in pay between Cat Tamper Operator and a Regular Operator \$32 an hour and \$ 27 , and any and all overtime acquired by the employee working the position of Cat Tamper Operator, beginning on November 20, 2015, to include all holidays, through and including on a continuous basis until this matter is settled ***’ (Employees’ Exhibit ‘A-1’).”

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.

On November 20, 2015 the Carrier issued Claimant a disqualification letter stating in pertinent part: *"... you are hereby disqualified as a Machine Operator on Cats tamper; Violating rule 41.2 Operators Responsibilities; Failure to properly maintain and efficiently operate the*

machine resulting in significant delay in Tie Team operation; Therefore, you should arrange to exercise your seniority as allowed in accordance with the BMW Agreement."

The Organization appealed the disqualification 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.

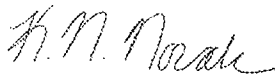
The Organization did not meet its burden to prove that the Carrier's disqualification decision was unreasonable, arbitrary or capricious. The Organization's arguments that the disqualification constituted discipline and/or retaliation are not persuasive on the record before the Board.

AWARD:

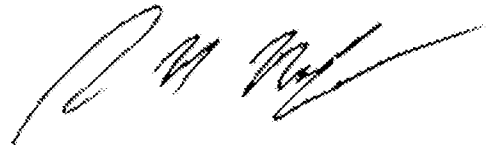
Claim denied.



Robert Grey
Neutral Member
Dated: May 11, 2018



Katheirne Novak
Carrier Member



Andrew Mulford
Labor Member