

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance  
of Way Employees Division - IBT

and

Union Pacific Railroad  
(Former Missouri Pacific Railroad)

Case No. 90  
Award No. 90

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

1. The Carrier's discipline (dismissal) of Mr. R. Webb, by letter dated October 20, 2016, for alleged violation of Rule 1.6: Conduct - Dishonest was without just and sufficient cause, unwarranted and in violation of the Agreement (System File UP707SN16D/1677280D MPR).
2. As a consequence of the violation referred to in Part 1 above, Claimant R. Webb shall have the charge and discipline removed and afforded all relief contemplated by Rule 22."

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 August 9, 2016, Investigation held October 11, 2016, "... to develop the facts and determine your responsibility, if any, in connection with the below charge. On 08/03/2016, at the location of Service Unit Headquarter Building, at approximately 10:00 hours, while employed as a Welder, you allegedly provided false information and false documentation to your immediate Supervisor claiming life events/family member's death to obtain the ability to be absent from work. This is a possible violation of the following rule(s) and/or policy: 1.6: Conduct – Dishonest. Additionally, **Rule 1.6: Conduct** stipulates that 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. Under the

MAPS Policy, this violation is a Dismissal event. Based upon your current status, if you are found to be in violation of this alleged charge, Dismissal may result.”

In a discipline letter dated October 20, 2016, the Carrier found that “... the evidence more than substantially supports the charges against you. The following charge has been sustained: On 08/03/2016, while employed as a Welder, you provided false information and false documentation to your immediate Supervisor claiming life events/family member’s death to obtain the ability to be absent from work. This is a violation of the following rule(s) and/or policy: 1.6: Conduct – Dishonest. Additionally, **Rule 1.6: Conduct** stipulates that 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. Based on your current record, you are hereby dismissed from all service with the Union Pacific Railroad.”

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 by this Board.

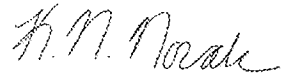
**AWARD:**

Claim denied.



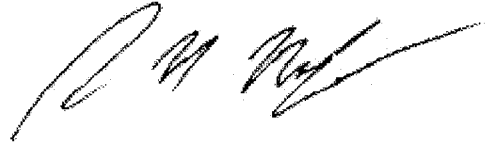
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Robert Grey  
Neutral Member  
Dated: March 28, 2019



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Katheirne Novak  
Carrier Member



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Andrew Mulford - 3/28/19  
Organization Member