

PUBLIC LAW BOARD NO. 7660

Brotherhood of Maintenance  
of Way Employees Division - IBT

and

Union Pacific Railroad Company

Case No: 113  
Award No: 113

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier's termination of Mr. J. Snedeker, by letter dated August 24, 2017, was improper and a violation of the Agreement (System File A-1748U-018/1694107 UPS).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Snedeker shall now be reinstated with benefits and seniority unimpaired and compensate him for all wage loss suffered as a result of the Carrier's improper seniority termination.

FINDINGS:

Upon the whole record, after hearing, this Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter. Parties to said dispute were given due notice of hearing thereon.

John Snedeker (Claimant), entered the service of the Carrier on April 7, 2008. Claimant was unassigned and on furloughed status when he was recalled to a sectionman position in Cheyenne, Wyoming. During the same reporting period, Claimant was awarded a bid as a carpenter in Kremmling, Colorado to begin on August 10, 2017. Claimant failed to report to either position. The Carrier alleges that Claimant was absent without authority for more than five (5) consecutive days between August 7 and August 21, 2017.

In response, the Carrier issued a letter to Claimant dated August 24, 2017, advising that he was dismissed from service pursuant to Rule 48 of the agreement between The Brotherhood of Railroad Maintenance of Way Employees and The Union

Pacific Railroad Company (Agreement). Rule 48 of the Agreement provides that employees forfeit their seniority rights and employment relationship under such circumstances. The negotiated language that governs this dispute is found in Rule 48(k). The rule states, in pertinent part that “Employees absenting themselves from their assignments for five (5) consecutive working days without proper authority will be considered as voluntarily forfeiting their seniority rights and employment relationship, unless justifiable reason is shown as to why proper authority was not obtained.”

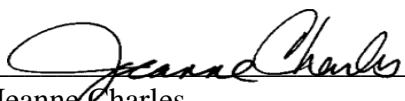
Under the Agreement, Claimant was permitted to request a conference to furnish a reason for the unauthorized absence. Claimant’s explanation was that he was not familiar with the protocols required by the Agreement. Additionally, he asserted that he was awarded a bid to a third position as an anchor applicator and he assumed he did not need to show up to the sectionman and carpenter positions.

The claim was timely and properly presented and handled by the Organization at all stages of appeal up to and including the Carrier’s highest appellate officer. Because the parties were unable to resolve the matter on the property, the issue is now before this Board for final adjudication.

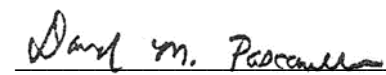
In reaching its decision, the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. A careful review of the record convinces the Board that Claimant did not obtain proper authority for his absence of at least five (5) consecutive days in August 2017. Claimant’s defense that he misunderstood the rules cannot be accepted. As the Board in PLB 6583 Award 103 held, “...ignorance of a rule cannot be used as an excuse for its violation. Rules and policies are written, published, and disseminated; and knowledge of the rules is imputed to all affected employees....” Claimant was not a new hire and is deemed to have had full knowledge of the requirement to report. Under the circumstances of this case, the Carrier met its burden of proof. Accordingly, the relief sought by the Organization is denied. The dismissal shall remain on Claimant’s personal record.

AWARD:

Claim denied.

  
Jeanna Charles  
Neutral Member

  
Chris Bogenreif  
Carrier Member  
Dated: 12/02/2019

  
David M. Pascarella  
Labor Member  
Dated: 12/09/2019