PUBLIC LAW BOARD NO. 7660

Brotherhood of Maintenance
of Way Employes Division - IBT

and

Union Pacific Railroad Company

Case No: 116
Award No: 116

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier's discipline (dismissal) imposed on Mr. C. Craig, by letter dated August 8, 2017, in connection with allegations that he left work without proper authority on June 30, 2017 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File A-1748U-010/1692363 UPS).

2. As a consequence of the violation referred to in Part 1 above, Claimant C. Craig shall be returned to service, the matter removed from his record, be provided all rights and benefits unimpaired, made whole by compensating him for all wages (straight time and overtime) and benefit loss including expenses incurred and Railroad Retirement months of service credits and all other loss.

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.

Charles Craig (Claimant) entered the service of the Carrier on July 24, 1995. On June 30, 2017, Claimant was assigned to Gang 4693 as a Track Welder Thermite. The Carrier alleged that Claimant voluntarily left Carrier property, without proper authority, at 2:30 p.m., which was a full hour earlier than his scheduled quitting time. In response, the Carrier issued a letter to Claimant dated July 14, 2017, advising that he was dismissed from service pursuant to Rule 48(l) of the agreement between The Brotherhood of

Railroad Maintenance of Way Employees and The Union Pacific Railroad Company (Agreement) which states:

> Employees need not be granted a hearing prior to dismissal in instances where they refuse to work, voluntarily leave the work site without proper authority or involuntarily leave their job as a result of apprehension by civil authorities, willfully engage in violence or deliberately destroy company property. (Emphasis in original).

Under the Agreement, Claimant was permitted to request an investigation hearing relative to his dismissal. A formal investigation was held on July 31, 2017. By letter dated August 8, 2017, the Carrier informed Claimant that he was found guilty and assessed an immediate dismissal.

The Claimant was also before this Board in Case No. 117. In that case, the Board sustained the claim and overturned the Claimant's termination based upon the same facts set forth herein. For that reason, any decision in this case regarding the Claimant's alleged misconduct is moot.

AWARD:

For the above reasons, the case is dismissed.

Jeanne Charles
Neutral Member

Chris Bogenreif
Carrier Member
Dated: 12/02/2019

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

Carrier Member Dissent to follow