

**PARTIES** ) **UNION PACIFIC RAILROAD COMPANY**  
)  
**TO** ) **VS.**  
)  
**DISPUTE** ) **BROTHERHOOD OF MAINTENANCE**  
) **OF WAYEMPLOYES DIVISION -IBT**  
) **RAIL CONFERENCE**

**Public Law Board consisted of the regular members and, in addition, Referee Meeta A. Bass when this Award was rendered.**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- 1. The Carrier’s discipline (MAPS Training 1) imposed upon Mr. M. Curtis, by letter dated October 20, 2021, in connection with allegations that he failed to comply with Rule 1.13: Reporting and Complying with Instructions was excessive, arbitrary, disparate, without the Carrier having met its burden of proof and in violation of the Agreement (System File B-2148U-207/1768664 UPS).**
- 2. As a consequence of the violation referred to in Part 1 above, Claimant M. Curtis shall now ‘... be made whole by compensating him for all wage and benefit loss suffered by him and any loss as a result, of any compounding discipline as a result and the alleged charge(s) be expunged from his personal record. Claimant must also be made whole for any and all loss.’ (Employees’ Exhibit ‘A-2’).”**

**FINDINGS:**

**The Board, upon the whole record and all the evidence, finds that:**

**The Carrier or Carriers and the Employee or Employees involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as approved on June 21, 1934. The Board has jurisdiction over the dispute involved herein. Parties to said dispute were given due notice of hearing thereon.**

**At all relevant times herein, the Claimant was assigned to work as a System Semi Truck Driver with ten (10) years of service to the Carrier and operated Trailer #43937. The Claimant was quarantined and did not work from August 31 through September 15, 2021. The Claimant failed a roadside inspection in August 2021, thereby triggering a review of his Electronic Log Device (ELD) reports from June 1 through September 13, 2021. These reports showed the Claimant failed to correctly fill out his logs concerning pre/post trip trailer inspections. The Claimant stated he performed pre/post-trip trailer inspections every time he drove his assigned combination truck, and in the event, that something was wrong with the trailer he would note it in the option box. Given the training on record, the Claimant maintained he did not know there was an option to do the trailer separately. At the time of this incident, the Claimant had no record of discipline.**

**The Carrier issued a Notice of Investigation letter dated September 22, 2021, stating: "...to develop the facts and determine your responsibility, if any, in connection with the below charge. On 09/06/2021, at the location of 2300 East Market St., Des Moines, IA, 50317, at approximately 06:00 hours, while employed as a Sys Semi Trk Dr, you allegedly failed 3 roadside inspections and failed to comply with instructions on documenting required inspections. This is a possible violation of the following rule(s) and/or policy: 1.13: Reporting and Complying with Instructions ..."**

**The investigation hearing occurred on October 1, 2021. Following the investigation hearing, the Claimant received a discipline notice dated October 20, 2021, sustaining the charge. The Carrier assessed MAPS Training 1 status and any additional training assigned concerning this violation.**

**The Organization filed a claim by letter dated December 17, 2021, and the Carrier denied the same on February 2, 2022. The Organization advanced the appeal by letter dated February 11, 2022, and the Carrier denied the same by letter dated April 12, 2022. A formal conference was held with no resolution of the claim on**

**June 22, 2022. The Organization submitted a post-conference letter on September 29, 2022, requesting the Carrier re-evaluate their position or the matter would be advanced to the National Railroad Adjustment Board. There was no change in the Carrier's position. This matter is before this Board for a final resolution of the claim.**

**The Board has reviewed the record developed by the parties during their handling of the claim on the property and considered evidence related to the following to make its determination of this claim:**

- 1) Did the Claimant receive a full and fair investigation with due notice of charges, opportunity to defend, and representation?**
- 2) If so, did the Carrier establish by substantial evidence the Claimant was culpable of the charged misconduct or dereliction of duty?**
- 3) If so, was the penalty imposed arbitrary, capricious, discriminatory, or unreasonably harsh in the facts and circumstances of the case?**

**The Carrier contends that no procedural errors or affirmative defenses would justify voiding the charges against the Claimant. The Manager clarified that on September 6, 2021, he became aware of the Claimant's third violation, as FMCSA records are updated during the initial week of each month. While the violation itself might not have transpired on September 6, 2021, it was the date when the Carrier was made aware of it, thereby validating the notice provided to the Claimant and detailing the charges against him. The Carrier asserts the Claimant must adhere to instructions outlined by regulatory bodies such as the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA), and Carrier-specific rules and regulations. Following three roadside inspections where the Claimant failed to inspect and document his trailer's inspections adequately, he was charged with violating Rule 1.13, Failure to Report and Comply with Instructions. His Manager presented evidence of coaching sessions, all of which emphasized the instructions given to the Claimant regarding inspecting and maintaining the company-assigned equipment. The Carrier maintains that it has met its burden of proof and that the discipline is consistent with policy.**

**The Organization contends the Carrier's investigation lacked fairness and impartiality by failing to inform the Claimant of specific charges per Rule 48(c), allowing Carrier personnel to breach sequestration and discuss the case during a break, and by the hearing officer's failure to issue a decision. The Organization argues there was no evidence the Claimant was instructed to log separate**

inspections for the truck and trailer in the Electronic Logging Device (ELD). Additionally, the Organization claims the Carrier did not demonstrate the Claimant received any training on completing pre/post-trip inspections in the ELD. Contrary to the Carrier's assertions, the Organization argues the Claimant's testimony indicates a belief that marking the combination truck as inspected covered both the truck and trailer. Finally, the Organization claims the disciplinary action was excessive.

After carefully considering the arguments presented by both parties and examining the relevant facts and rules, the arguments properly preserved during the claim process are not prejudicial. This Board finds sufficient evidence to substantiate a violation of Rule 1.13, Failure to Report and Comply with Instructions. While the Organization has raised concerns about the severity of the disciplinary action taken against the Claimant, the Carrier's actions are consistent with company policy and necessary to ensure compliance and safety standards are upheld.

### AWARD

Claim is denied.

### ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant not be made.

*/s/ Meeta A. Bass*

Meeta A. Bass  
Neutral Chairperson

*Jennifer McNeil*  
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Jennifer McNeil  
Carrier Member  
Dated: April 29, 2024

*John Schlismann*  
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John Schlismann  
Organization Member  
Dated: April 29, 2024