

PUBLIC LAW BOARD NO. 7766

Brotherhood of Maintenance
of Way Employes Division - IBT Rail Conference

and

New Orleans Public Belt Railroad

Award No. 14

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

1. The Carrier's discipline [fifteen (15) day record suspension and the removal of foreman and relief foreman rights] of Mr. J. Reed, by letter dated November 16, 2018, for alleged violation of NOPB RR's Safety and Operating General Rule 23(N)(4), effective April 1, 2018, was unwarranted, arbitrary and in violation of the Agreement (System File NOPB537JF18 NOP).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Reed's charges and imposed discipline must be overturned. This includes restoring the Claimant's relief foreman and foreman seniority rights and the fifteen (15) day record suspension removed from the Claimant's personal record. Additionally, the Claimant must be '... compensated for any and all lost time (if any), at the Claimant's respective straight time rate of pay, and any and all overtime at his respective overtime rate (if any), had he not been unjustly awarded a rescinding of his Foreman and Relief Foreman seniority rights, and a 15 day "record" suspension beginning immediately, the date of the letter of decision, dated November 16, 2018, through and including on a continuous basis until this matter is settled. Also, to include credit for all lost time (if any) to be afforded to Railroad Retirement, vacation, hospitalization, to include doctors, hospitals, doctor's office visits, dental, and prescriptions. Also, to include any and all expenses the Claimant may have acquired to include meals, lodging, and mileage at the rate of \$.54.5 cents a mile from the Claimant's place of residence ... to the New Orleans Public Belt Railroad Building, 940 Central Avenue, Metairie, Louisiana, and return to the Claimant's place of residence....' (Employes' Exhibit 'A 3')."

FINDINGS

Public Law Board No. 7766, 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 Notice of Investigation, Investigation held October 23, 2018, “to ascertain the facts and determine your responsibility, if any, in connection with your alleged failure to follow NOPB’s Safety and Operating rule(s): General Rule 23 Proper / Improper Employee Behavior, Subparagraph N which reads in relevant part, "All employees must behave in a civil and courteous manner when dealing with customers, fellow employees and the public. Employees must not: ... 4. Be disloyal, dishonest insubordinate, immoral, quarrelsome, vicious, careless or incompetent." Specifically, it is alleged that you were dishonest and incompetent on Monday, October 1 at 6:35 AM at the Huey P. Long Administration Building when you made statements that were false and showed poor judgement in your role as a Relief Foreman.”

In a discipline letter dated November 16, 2018, the Carrier found that “Based on the information provided during the formal investigation and after weighing the credibility of those who testified, [] there was relevant and sufficient evidence to support the conclusion that Mr. Reed was guilty of violating NOPB’s Safety and Operating General Rule 23(N)(4), effective April 1, 2018. ... Accordingly, [the Carrier] rescind[ed] Mr. Reed’s foreman and relief foreman rights, effective immediately, and impose[d] a 15-day “record” suspension.”

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.

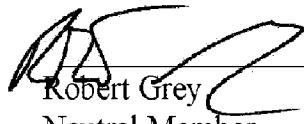
The Board finds the Organization’s procedural objections unpersuasive under the facts and circumstances of this record.

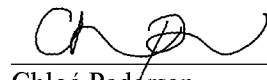
There is substantial evidence in the record to uphold the Carrier’s discipline determination. The Organization’s defenses are not persuasive. The discipline assessed by the Carrier was not

arbitrary, capricious, or an abuse of discretion under the facts and circumstances of this record.
Therefore, it will not be disturbed.

AWARD

Claim denied.


Robert Grey
Neutral Member


Chloé Pedersen
Carrier Member


Zachary Wood
Organization Member

April 7, 2022
Dated