

PUBLIC LAW BOARD NO. 7766

Brotherhood of Maintenance
of Way Employees Division - IBT Rail Conference

and

New Orleans Public Belt Railroad

Award No. 15

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

1. The Carrier’s discipline [thirty (30) day suspension] of Mr. J. Reed, by letter dated December 18, 2018, for alleged violation of NOPB’s Safety and Operating General Rule 19(J) was unwarranted, arbitrary and in violation of the Agreement (System File NOPB501JF19 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 and removed from the Claimant’s personal record and he is to be compensated for any and all lost time at the Claimant’s respective straight time rate of pay, and any and all overtime at his respective overtime rate of pay. Also, to include credit for all lost time to be afforded to railroad retirement, vacation, hospitalization, to include doctors, hospitals, doctors’ office visits, dental, vision, prescriptions and all seniority unimpaired. Further, all expenses the Claimant may have acquired to include meals, lodging and mileage at the negotiated rate of fifty-four and one-half cents (\$.54.5) a mile from the Claimant’s place of residence.”

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 November 16, 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 19. Company Expectations and Requirements, Subparagraph J which reads in relevant part,

"Negligence in handling company business, willful neglect of duty, insubordination, disloyalty, giving false statements, viciousness, fighting, falsification of payrolls, or concealing facts concerning matter under investigation, are sufficient causes for dismissal." It is specifically alleged that you falsified payroll records and willfully neglected your duty. On Saturday, October 27, 2018 at the Huey P. Long Administration Building you allegedly turned in a timesheet with an excessive amount of time added to it. It is also alleged, when leaving the job site on October 27, 2018, you did not take a direct route back to your report station."

In a discipline letter dated December 18, 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 19(J). ... Accordingly, [the Carrier issued Mr. Reed] a thirty (30) day suspension starting December 19, 2018."

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