

PUBLIC LAW BOARD NO. 7766

Brotherhood of Maintenance
of Way Employees Division - IBT

and

New Orleans Public Belt Railroad

Award No. 5

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline [one (1) day classroom training and two (2) days of field training] of Mr. I. Davis, III, by letter dated December 21, 2016, for violation Rules SR-97 and SR-98 was based on unproven charges, unjust, unwarranted and in violation of the Agreement (System File NOPB504JF17 NOP).
2. As a consequence of the violation referred to in Part 1 above, the Carrier shall remove all associated charges and discipline from Claimant I. Davis, III’s record and make him whole for all loss.”

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 a Notice of Investigation dated October 31, 2016, Investigation held November 22, 2016, “to ascertain the facts and determine your responsibility, if any, in connection with your alleged failure to comply with the NOPB Safety and Operating Rules with respect to an incident that occurred on Monday, October 24, 2016, at approximately 1500 hours at 940 Central Avenue, Metairie LA, 70001, involving a gang truck that backed into a trailer.”

In a discipline letter dated December 21, 2016, the Carrier found that *“there was relevant evidence to support the conclusion that Mr. Davis was guilty of violating the following NOPB Safety and Operating Rule: SR-97 and SR-98. Specifically, SR-97 requires employees to “limit any backing to only the necessary distance when you are backing up and the rear vision is obstructed...a second person when available must take position near the rear of the vehicle to guide the movement.” SR-98 provides that “vehicle drivers are responsible for the safe and proper operations of the vehicle, and they’re in charge for the safety of their occupants.” Mr. Davis failed to follow the proper operating procedures when backing up with obstructed vision. Transcript of the Investigation, pages 30-36. Based on the record, sufficient evidence exists to support the conclusion that Mr. Davis was guilty of the charge described above. The actions of Mr. Davis constitute a serious offense. Accordingly, I hereby assess three (3) days of discipline by receiving one (1) day of classroom training followed by two (2) days of field training.”*

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.

There is substantial evidence in the record to uphold the Carrier’s discipline determination. The Carrier met its burden of proof regarding Safety and Operating Rules SR-97 and SR-98. 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, and will therefore not be disturbed by this Board.

AWARD:

Claim denied.

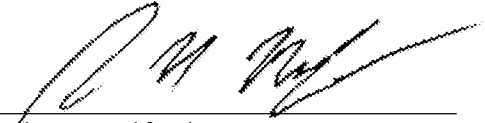


Robert Grey
Neutral Member

Dated: March 22, 2018



Erica Beck
Carrier Member



Andrew Mulford
Labor Member