

PUBLIC LAW BOARD NO. 7766

Brotherhood of Maintenance
of Way Employees Division - IBT

and

New Orleans Public Belt Railroad

Award No. 6

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. R. McKnight, by letter dated December 21, 2016, for violation of Rule GR-D3 was based on unproven charges, unjust, unwarranted and in violation of the Agreement (System File NOPB505JF17 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 R. McKnight’s record.”

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 November 16, 2016, Investigation held November 23, 2016, “to ascertain the facts and determine your responsibility, if any, in connection with an incident that occurred on Wednesday, November 9, 2016, at approximately 1500 hours at MP J3.1 resulting to damage to property (a forklift), which you allegedly failed to report by the quickest means available as required by NOPB Safety and Operating Rule GR-D3 (page 14).”

In a discipline letter dated December 21, 2016, the Carrier found that “*there was relevant evidence to support the conclusion that Mr. McKnight was guilty of violating the following NOPB Safety and Operating Rule: GR-D3. Specifically, the rule requires that employees report damage to property by the quickest means available. Here, after having been informed of the damage by his crew, Mr. McKnight failed to report the damage until management called him in and questioned him about it the following day. As foreman of the crew, Mr. McKnight is responsible for promptly reporting the damage to management once his crew notified him of the damage. Transcript of the Investigation, page 42. Based on the record, sufficient evidence exists to support the conclusion that Mr. McKnight was guilty of the charge described above. The actions of Mr. McKnight 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.

The Board finds the Organization’s procedural objections unpersuasive.

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, and will therefore not be disturbed by this Board.

AWARD:

Claim denied.

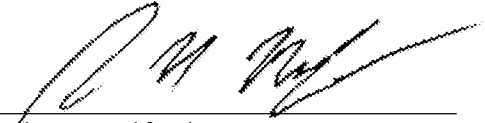


Robert Grey
Neutral Member

Dated: March 22, 2018



Erica Beck
Carrier Member



Andrew Mulford
Labor Member