

PUBLIC LAW BOARD NO. 7766

Brotherhood of Maintenance
of Way Employees Division - IBT

and

New Orleans Public Belt Railroad

Award No. 8

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

1. The discipline [one (1) day classroom training followed by two (2) days of field training] imposed on Mr. D. Sims, Jr., by letter dated December 21, 2016, for alleged violation of NOPB Safety and Operating Rule SR-94 in connection with an alleged incident that took place on October 24, 2016, involving a Company vehicle, referencing a possible failure to wear a seatbelt was without just cause, excessive, on the basis of unproven charges and in violation of the Agreement (System File O78100516 NOP).
2. As a consequence of the violation referred to in Part (1) above, Claimant D. Sims, Jr.'s record shall be cleared of the charges leveled against him and he must be made whole for the lost compensation, benefits and any and all expenses incurred, at the applicable rate of pay."

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. As a passenger in a company vehicle, it is alleged that you were responsible for wearing a seatbelt in accordance with NOPB Safety and Operating Rule SR-94.”


In a discipline letter dated December 21, 2016, the Carrier found that “there was relevant evidence to support the conclusion that Mr. Sims was guilty of violating the following NOPB Safety and Operating Rule: SR-94. Specifically, the rule states that occupants of vehicles must use seatbelts, and Mr. Sims testified that he did not have his seatbelt on when the accident occurred. Transcript of the Investigation, pages 18 and 23. Based on the record, sufficient evidence exists to support the conclusion that Mr. Sims was guilty of the charge described above. The actions of Mr. Sims 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.”

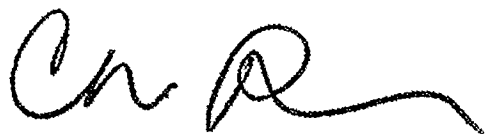
The Organization appealed the discipline and the Carrier denied the appeals. The dispute was not resolved during a settlement conference and progressed to arbitration. This matter is now before the Board for final and binding resolution. The Board has carefully reviewed the entire record in this case, 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 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 by this Board.

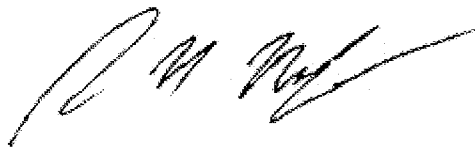
AWARD:

Claim denied.


Robert Grey
Neutral Member
Dated: March 13, 2019



Chloé Pedersen
Carrier Member



Andrew Mulford
Organization Member