

PUBLIC LAW BOARD NO. 7425

PARTIES) SMART - TRANSPORTATION DIVISION
TO)
DISPUTE) BNSF RAILWAY COMPANY

STATEMENT OF CLAIM:

Claim of Dilworth, Minnesota Engineer Shayne Woolverton for reinstatement to service with seniority rights unimpaired, removal of censure from his personal record and pay for all time lost including but not limited to the following: payment of vacation allowance, health and welfare costs, reimbursement of all expenses related to the pursuit of alternative employment, reimbursement for any damages incurred as the result of discharge from service including proceeds on any property, real estate or financial instruments sold to replace lost compensation, as a result of an investigation held on May 1, 2014. (Organization File No. D1137-255-14E; Carrier File No. 50-15-0025D)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The Claimant's dismissal from service arises from a Carrier determination that testimony and exhibits brought forth at an investigation conducted on My 1, 2014 show that while the Claimant was assigned to the Engineer's Guaranteed Extra Board at Dilworth, MN he failed to be available for service with an on-duty time of 1430 hours when called on his telephone number of record by the Crew Support system from 1304 hours to 1321 hours, February 22, 2014. The Carrier further submitting that the penalty of dismissal was assessed in view of the current violation when considered in the light of the Claimant's overall disciplinary record.

As concerns the instant dispute involving a missed call, the Claimant was held by the Carrier to have violated General Code of Operating Rule (GCOR) 1.16, Subject to Call and GCOR 1.15, Duty – Reporting or Absence.

GCOR 1.16 states:

Employees subject to call must indicate where they can be reached and must not be absent from their calling place without notifying those required to call them.

GCOR 1.15 reads in part here pertinent:


Employees must report for duty at the designated time and place with necessary equipment to perform their duties. . . . Continued failure by employees to protect their employment will be cause for dismissal.

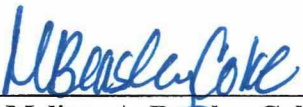
Although the Claimant admits to missing the call on the date at issue, February 22, 2014, and having violated the aforementioned GCOR rules, it was offered that it was the result of difficult extenuating personal circumstances of illness that had affected his overall attendance at the time; a defense more fully offered and commented upon involving the Claimant in prior Board Case No. 109 (Award No. 109).

For the same reasons as set forth by the Board in Award No. 109, it is obvious that the Claimant has here demonstrated, as in the past, an unfortunate belief that he does not have a responsibility to be available for service as the full-time employee for which he was employed. This is the Claimant's 6th attendance violation in the previous 12 months; his 13th overall discipline of record, all for attendance related incidents. In the circumstances, the Board finds no basis to conclude that discipline as assessed was harsh or unwarranted, as urged by the Organization.

Award:

Claim Denied.


Robert E. Peterson
Chair & Neutral Member


Melissa A. Beasley-Coke
Carrier Member


J. Michael LaPresta
Organization Member

Fort Worth, TX
Dated: March 1, 2018