

PARTIES TO DISPUTE:

UNION PACIFIC RAILROAD COMPANY  
AND  
BROTHERHOOD OF LOCOMOTIVE ENGINEER AND TRAINMEN

STATEMENT OF CLAIM:

*“Request the removal of discipline – ‘Second Offense’ Attendance Policy – from the record of Engineer T. D. Claiborne.*

FINDINGS:

On November 22, 2004, Carrier mailed certified letter to Engineer T. D. Claiborne, advising:

*“You are hereby notified to be present in Manager Train Operations office at 118 East First St. Taylor, Texas on Tuesday, November 30, 2004 at 1:00 pm for a formal investigation.*

*The purpose of this investigation is to develop the facts and determine responsibility, if any, in connection with your alleged violation of the Union Pacific Attendance Policy effective January 15, 2004, as a result of your alleged failure to protect employment by excessively absenting yourself from service between August 16, 2004, and November 14, 2004, while employed as Engineer with Union Pacific Railroad. Your work history indicates frequent personal layoffs and frequent sick/sickness in the family layoffs without medical documentation.*

*You are charged with responsibility which may involve a violation of the General Code of Operating Rules 1.13 and 1.15 as adopted and modified by Union Pacific Railroad.*

*You are entitled to representation and witnesses in accordance with agreement provisions. Any request for postponement must be submitted in writing, including reason therefore, to the undersigned.*

*[“NOTE where BLE Agreement Requires measure of discipline to be stipulated for engineers]*

*Pursuant to the BLE Labor Agreement, you are advised that the disciplinary assessment for these allegations may result in a finding of "Second Offense" under the Company's Attendance Policy. Should you wish to waive this hearing, the charging officer may be contacted to arrange an informal conference prior to the investigation."*

After mutually agreed upon postponement, Carrier convened formal investigation on January 11, 2005, and reconvened on April 6, 2005. Carrier read transcript of investigation and found Engineer Claiborne responsible, as charged. Upon a finding of responsibility, Carrier assessed discipline of 'Second Offense' Attendance Policy.

Discipline was appealed and denied in accordance with labor agreement. Partisan parties have been able to resolve this dispute on property, and it comes, now, before this Board for final and binding adjudication.

During formal investigation, Carrier established that Engineer Claiborne had been provided the benefit of prior counseling on excessive absenteeism and given instructions to improve his attendance record. Carrier further established through testimony and documents that subsequent to counseling and during the period covering August 16, 2004 through November 14, 2004, Engineer Claiborne was absent from work for excessive vacation; sickness in the family; personal sickness; and personal leave totaling more than thirty (30) days.

Carrier pointed out that in addition to excessive absenteeism on weekends and holidays, Engineer Claiborne would, often, layoff when he neared the top of the board, then, mark-up after being placed at the bottom.

Organization argued it was unaware of any agreement that prohibited Engineer Claiborne's laying off – irrespective of his placement on the board.

Carrier responded that its Attendance, and UPGRADE Discipline policies – not subject to agreement negotiation – prohibited excessive absenteeism.

OPINION OF THE BOARD:

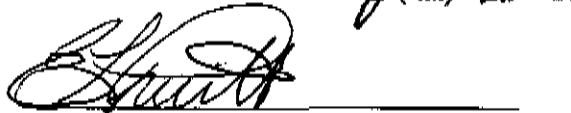
We believe Carrier behaved reasonably in assessing discipline as it did, and we leave it, undisturbed.


PLB 6833  
CASE NO. 74  
AWARD NO. 74

AWARD:

Claim is denied per findings, above.

  
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J. E. (Jim) Nash - Arbitrator, Chairman and Neutral Member

  
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Employee Member, Mr. Lee Pruitt  
Brotherhood of Locomotive Engineers &  
Trainmen

  
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Carrier Member, Mr. Randy Weiss  
Union Pacific Railroad Company

Date June 9, 2006