

PUBLIC LAW BOARD NO. 4901

AWARD NO. 181

CASE NO. 181

**PARTIES TO
THE DISPUTE:**

United Transportation Union

vs.

The Burlington Northern Santa Fe Railway Company
(Coast Lines)

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim denied

STATEMENT OF CLAIM:

“Request in behalf of Gallup Brakeman P. R. Bryant for the removal of the Level S thirty (30) day Suspension, in addition, the three (3) year probation period and exoneration of the alleged violations of Rules 1.1, 1.1.1, 1.1.2, 1.3, 1.3.2, 1.3.3, 1.6(1), (3), (6) and (7), 1.13, 1.15, and 1.47 (A1) and (D) of the General Code of Operating Rules with revisions No. 1, in effect on April 10, 1998, and Rules S-1.0 and S-1.1 of the TY&E Safety Supplement No. 1, in effect April 1, 1998, from the Claimant’s personal record and the Claimant be exonerated of all violations of the Rules, and paid for all time lost as a result of the Formal Investigation conducted on November 15, 1999.”

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

Claimant was charged with several rule violations arising out of his alleged refusal to cooperate in a job briefing with his conductor on October 30, 1999. At the time of the incident, Claimant had less than two years of service with the Carrier. His prior work record reflects a formal reprimand for failure to maintain a proper lookout.

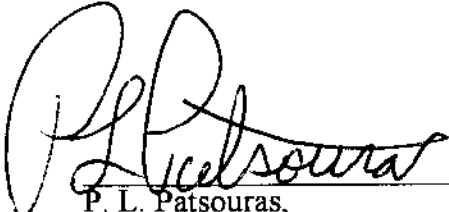
Substantial evidence in the record supports the Carrier’s determination that Claimant violated the rules cited. The testimony of his conductor established that Claimant was hostile and uncooperative toward her when she attempted to conduct a job briefing several times over the course of approximately one hour. Claimant walked out on her multiple times, raised his voice, used profanity, and made a comment that she should be careful walking in the parking lot alone. The conductor felt the level of hostility compromised safety. Eventually the crew was sent home and another crew had to be called out to fill the assignment. Three other witnesses corroborated the conductor’s account of the verbal altercation; they did not provide support for the Claimant’s version of the incident.

Given the nature of the misconduct demonstrated by the evidence and its adverse impact on


safety, we do not find the discipline imposed by the Carrier to be harsh or excessive. Accordingly, we find no proper basis for disturbing the Carrier's action.

AWARD:


The Claim is denied.



P. L. Patsouras,
Organization Member



Gerald E. Wallin, Chairman
and Neutral Member



Gene L. Shire,
Carrier Member

DATE: Oct. 17, 2003