

**NARR September 19, 2025**

**Green/Red Light Panel – Scenario 1**

Claimant is an engineer with the Shenandoah Railroad and has about 17 years of service. At the time of the incident, Claimant was working a two-person crew in Dorsey Yard, which included Yard Foreman Connie Haines. They began work at 5:00 a.m. on April 10. Their first assignment was to move a three-engine unit from the Inbound Main Track into the number Eight Stub Track and secure them for an outbound crew later that day. Afterwards, Claimant performed other moves until the completion of his workday at 1:30 p.m. At approximately 6:45 p.m. that same day, Terminal Director Pauline Weston was driving through Dorsey Yard and observed the three locomotives in Eight Stub Track. Weston noticed that the middle locomotive (FR971) did not have a hand brake applied. Weston asked the Operations PM Shift Manager Joe Stafford who left the locomotives in Eight Stub Track and was told that the crew did so on the AM shift.

The Carrier conducted an Investigation and did not call Stafford as a witness. Claimant was ultimately found to be in violation of Operating Safety Rule 70.7, which states before leaving engines they must be properly secured. The Carrier issued a five-day Suspension plus retraining pursuant to the Railroad's Corrective Action Guidelines. The Carrier did not discipline Yard Foreman Haines.

**The Carrier's Position:** It has met its burden of Substantial Evidence.

- Claimant admitted he parked the locomotives and could not explain why FR971 was found unsecured.
- No record of any other crew being instructed to board FR971.
- It is irrelevant that Terminal Director Weston found the engine unsecured hours after Claimant parked the three locomotives.
- Rejects the Organization's argument that the facility's physical layout and unsecured access points of Dorsey Yard permits anyone to come in off the street and tamper with equipment.
- It was the Carrier's decision who it would call as its witnesses. If the Organization wanted testimony from PM Shift Manager Joe Stafford, it could have called him as a witness.
- The discipline was reasonable given the totality of circumstances.

**The Organization's Position:** The Carrier has not met its burden of proof.

- Weston's observation of FR971 was made 5 hours and 15 minutes after Claimant's shift ended and approximately 13 hours after Claimant moved the subject move.
- The three engines sat on the Eight Stub Track the entire time unattended.
- The Yard access points are unsecured. An employee or trespasser may have boarded FR971 and released the hand brake.
- FR971 was in the middle of the three-locomotive consists which was secured by the hand brakes applied on the other two locomotives. The consist did not move or roll out.
- Terminal Manager Weston never debriefed Claimant's crew about the events of April 10.
- The Carrier's failure to charge Yard Foreman Haines in addition to Claimant is disparate treatment.

Should the Claim be Sustained, Denied, or Modified?

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**Green/Red Light Panel – Scenario 2**

Claimant is a Conductor on the ACME Railroad with approximately 9 years of service. At the time of the incident on March 24, Claimant was working as Conductor with Engineer Wiley in the Coyote Subdivision. The Dispatcher notified the crew by radio of a Slow Order with no flags displayed from Milepost 454.5 to Milepost 453.0, in which the maximum speed was 10 MPH. The dispatcher stated “no flags displayed” in his transmission. The crew acknowledged the Slow Order. It was subsequently discovered that the crew passed Milepost 454.5 at 39 MPH.

The Carrier conducted an Investigation and ultimately charged Claimant with failure to take the appropriate action to prevent the locomotive engineer from exceeding the maximum authorized 10 MPH speed in the Slow Zone. Claimant’s FRA Qualification and Certification as a Conductor were revoked and she was dismissed. The record is unclear whether the revocation was permanent or temporary.

**The Carrier's Position:** It has met its burden of Substantial Evidence.

- The radio transcript of the communication between the Dispatcher and the crew proves that the crew was aware of the Slow Order in effect and that the train was not to exceed 10 MPH at Milepost 454.5.
- The Organization did not dispute any of the Carrier's exhibits.
- The Carrier is not obligated to provide warning flags or alert the crew of the speed reduction.
- The crew had warning to comply with the speed restriction order and failed to do so.
- The discipline was appropriate pursuant to the Carrier's disciplinary guidelines.

**The Organization's Position:** The Carrier has not met its burden of proof.

- The Carrier failed to use all possible measures to warn Claimant's crew of the speed restriction.
- The Maintenance Foreman stated during the Investigation they are required to carry flags for restrictions and acknowledged that the safe course of action would have been to put up a yellow board as a reminder to slow down.

Should the Claim be sustained, denied, or the discipline modified?

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**Green/Red Light Panel – Scenario 3**

Claimant is a Yardman on Grand Funk Railroad with approximately 23 years of service. At the time of the incident on September 23, Claimant was working as Conductor on a remote control move in Flint Yard. A Repair Department Carman working in Tracks 9 and 10, doing air inspection, failed to have the tracks lined against him, but had a derail up with a flashing blue signal light connected to the derail in Track 10. Claimant's train was traversing the working Lead with a cut of 56 cars; Claimant was riding the end car to protect the shove movement. By the time Claimant noticed the blue light and derailer as he approached the Number 10 Switch, it was too late to bring the train to an adequate stop. As a result, he had to jump off of the car he was riding when he put his train into emergency. The two rear cars of his cut derailed.

The Carrier conducted an Investigation and ultimately charged Claimant with failure to operate his train at a speed which allowed sufficient stopping distance, entering a track protected by blue flag protection, passing a blue signal, running over a derail, and derailing two cars. Claimant was issued a 30-day Suspension pursuant to the Carrier's disciplinary guidelines.

**The Carrier's Position:** It has met its burden of Substantial Evidence.

- The fact that the Carman did not properly protect his work area does not absolve Claimant of responsibility to operate his train at a speed to stop short.
- No dispute that Claimant entered a protected track, passed a blue flashing light signal, and ran over a derailer.
- Claimant did not contend that his view of the signal was obstructed or restricted.
- The discipline was appropriate because Claimant had a prior safety violation.

**The Organization's Position:** The Carrier has not met its burden of proof.

- Claimant was never informed that a Carman was working in the immediate area; no briefing by the Yardmaster or Carman.
- The Organization places the blame for the derailment on the Carman for failure to do the following:
  1. line the Number 10 Switch away from the track in which he was working; and
  2. place the portable derail device in a proper manner to fully restrict access to Track 10.
- The Carman took responsibility for his errors and accepted the discipline.
- The subject locomotive had a problem with brakes but the Carrier failed to produce an inspection report and a data download at the Investigation.

Should the Claim be sustained, denied, or the discipline modified?

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**Green/Red Light Panel – Scenario 4**

Grievant worked for Carrier as a maintenance mechanic for more than twenty years. The SMART Local 825 contract has a just cause provision. Applicable rules and regulations require annual CPR, anti-retaliation and harassment training. Progressive discipline consists of a verbal warning, written warning, suspension and termination. Grievant's only prior discipline was a verbal notice dated August 20, 2021, for throwing down a wrench during a disagreement with his supervisor. There is testimony that Grievant also offered to step outside with his supervisor, and that during past training conducted with the [female] VP of HR he sat backwards the entire time, but there was no discipline. Grievant attended annual anti-retaliation and harassment training on September 1, 2023.

The events resulting in Grievant's discharge occurred on October 24, 2023 during first aid and CPR training provided by a female trainer in accordance with the American Heart Association guidelines. While discussing CPR and the use of an AED automatic external defibrillator Grievant raised a concern of his niece having a medical condition that precluded the use of an AED. The trainer replied she was only following AHA guidelines so if Grievant was not comfortable doing CPR that is his choice. She said the niece could get a "do not resuscitate" tattoo, but that might be confusing because some people might think that's her initials or "Donald." Grievant testified to thinking Jefferson's comment was pretty rude, he wasn't saying let my niece die. Grievant got upset because that's saying let her die and was using the f-word.

Unit member Giovanni testified on behalf of Grievant that clearly he was upset and the conversation became heated. It is uncontested that Grievant then told Jefferson "don't get your panties in a bunch." Grievant maintains he did not mean it in a hurtful or sexual way, he meant for Jefferson to calm down. Jefferson testified the comment was upsetting and humiliating, she was the only female in the room and was quite shocked that he said that. Giovanni interpreted it as don't get upset; Grievant did not mean anything perverted but the statement was inappropriate, however while Jefferson deserves respect her comments about getting a tattoo demeaned Grievant. A manager told Grievant that's enough and the training continued.

Grievant was suspended pending investigation. The manager and trainer provided statements but no unit employees did though asked. The resulting termination notice cited Harassment and stated "By the employee's own admission it was found that the employee was disruptive and argumentative during the CPR training and made unwelcome and demeaning remarks to the CPR instructor (female) while also creating an uncomfortable environment for

all the employees who participate in the training.” The Union’s grievance filed that day states “During CPR class Wilma and I got into a disagreement we both got upset and words were exchanged and I said ‘Don’t get you panties tight.’ I didn’t realize that crossed the line. I will accept the suspension, attend counseling, sensitivity classes, retraining and personally apologize to everyone I offended to secure my employment with the Company. At the same location multiple employees have been written up and received documented counseling for harassment towards another union employee. My termination does not reflect the same punishment.”

During the hearing, prior discipline of unit members was put into evidence including: a verbal warning and sensitivity training ordered when White unit member told a Black unit member “I bet you celebrate Kwanza and not Xmas;” a five day suspension when a White unit member cursed at a driver over the radio and called him a Spic; A White unit member was given a five day suspension for calling a Hispanic conductor while in the break room an “avocado eating mother fucker” with fourteen kids, though the Hispanic conductor admitted that he had joked about the unit member being White and fat; three employees received documented counseling after using valve stems in the shape of penises; an employee at the suspension level was terminated when during anti-harassment training conducted by a female supervisor the phone rang and he said it sounds like a gay ring tone, and a unit member at the suspension level was terminated in May 2023, after complaints from co-workers that he was making sexually explicit noises on the radio.

As the Arbitrator would you affirm, deny or modify the penalty of discharge?



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**Green/Red Light Panel – Scenario 5**

**BEFORE SPECIAL BOARD OF ADJUSTMENT**

**BMW**

**and**

**SOUTHWEST COMMUTER RAILROAD INC.**

This dispute involves Danny Linn employed by the Commuter Railroad as a Foreman. On September 1, 2023, Claimant was given a letter instructing him to attend a formal investigation on October 25, 2023, at 9:00 a.m. for the purpose of developing the facts and assess responsibility, if any, in connection with his alleged carelessness while driving a company vehicle in the coach yard which sustained damage on September 1, 2023.

Claimant was charged with alleged violation of Safety Rules and Procedures, Rule 107.2 and 107.5. This dispute is before this Special Board of Adjustment established by agreement between the BMW and Southwest Commuters Railroad Inc., dated December 15, 2000.

**FINDINGS:**

The police report concerning the incident indicates that the Claimant was driving a company truck and struck a set of engine wheels as he was backing up. The police report described the damage as a small dent on the rear passenger side quarter panel. The value of the damage was listed as \$100.00

To the Claimant's credit, he followed proper procedure in reporting the incident. The fact that he reported the incident, does not, however exonerate the Claimant on the actual charge, which was carelessness in operating a company vehicle. The Claimant was obviously responsible for the damage to the vehicle, which would establish that he did not exercise proper care in operating the trucks. The overriding question in this case concerns the measure of discipline.

After it was established that the Grievant was responsible in connection with the charges. The Carrier had the prerogative to impose discipline. The Carrier gave Claimant a five-day suspension. The Claimant had a record of seventeen (17) years of service and only one previous entry of discipline, a one day deferred suspension about four (4) years prior to the incident on September 25, 2019. Claimant was active with the Organization holding the office of president.

The Carrier's discipline policy provided that the minimum discipline when a driver is at fault in a vehicle accident will be a five-day suspension.

. Affirm, Deny or Modify

Who agrees with the 5 day suspension?

What if the discipline provision was added as a policy after the incident involving Claimant and was not in effect at the time of the incident.

Affirm, Deny or Modify

What if the Organization proved other employees committed the same offense but were given counseling and training.

Affirm, Deny or Modify

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**Green/Red Light Panel – Scenario 6**

Carrier rules prohibit sleeping on duty. It further states that employees found reclined with their eyes closed will be in violation of the rule.

On 2nd shift, a mechanical foreman observes a mechanical employee in the cab of a locomotive, reclined in a chair with his feet on the dash and head turned away from the window. The foreman takes photos of the employee through the window, before entering the cab. The employee is sitting up when the supervisor enters the cab, with his feet on the floor. He appears groggy. When asked why he was in the cab, he states he was performing an inspection on the locomotive and took his break in the cab.

At the investigation, the carrier provides the photos and testimony from the foreman that it was not a designated break time when he took them. The union argues the employee's eyes are not visible in the photos and that breaks are sometimes taken when you can fit them in, not at a designated time. The employee denies he was sleeping. The Union therefore concludes the carrier has not met its burden of proof. Carrier imposes discipline consistent with its policy.