

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                      BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Randy Miller for the unwarranted discipline of 5 days Actual Suspension from service (April 3, 2020 through April 7, 2020) assessed to Engineer Miller. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR I - Duty Reporting or Absence.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On March 20, 2020, the Carrier conducted an investigation in connection with the Claimant's alleged violation of the Carrier's Management Attendance Guidelines (“AMG”). Specifically, the evidence adduced at the investigation established that Claimant was absent on October 27, 2019 (prior to an FMLA leave day) and January 15, 2020 (prior to a rest day), which the Carrier asserts warranted discipline under

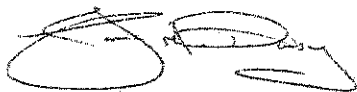
USOR I for having two unexcused absences adjacent to a holiday, rest day, vacation day or FMLA leave day. The record shows that the Claimant's January 15 absence was not covered under the FMLA due to his failure to submit the requisite information to the Carrier in a timely manner. Once he submitted such information, the Carrier properly approved him for FMLA intermittent leave for future absences.

Therefore, on April 3, 2020, the Carrier notified the Claimant that he was found to be in violation of USOR Rule I - *Duty-Reporting or Absence* and assessed a 5-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that alleged violations prejudiced the Claimant in any way. Turning to the merits, the Board concludes that the Carrier present substantial evidence to support the alleged violation herein. Furthermore, the penalty imposed is consistent the Carrier's discipline policy and the AMG. Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022

Marcus Ruef, Organization Member

SAKNpil'

Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:            BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Dustin Murray for the unwarranted discipline of 15 days Actual Suspension from service (June 19, 2020 through July 3, 2020) assessed to Engineer Murray. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 701 – Position of Switches and Derails, and USOR 710 – Switches Run Through.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On June 10, 2020, the Carrier conducted an investigation in connection with an incident on March 2, 2020, where he allegedly ran through a switch in the Waterloo Yard. Specifically, the

evidence adduced at the investigation establish that on the day in question at approximately 1830 hours, the Claimant and his conductor were in the process of going into Track 15 in Waterloo Yard to pick up cars. The Conductor went to the rear of the cut of cars to remove their handbrakes and directed the Claimant to pull ahead. While protecting the move the Claimant proceeded forward without realizing he had a switch lined against his movement. He attempted to stop prior to running through the switch but was unsuccessful.

Consequently, on June 18, 2020, the Claimant was notified he was found in violation of USOR 520 – Movement on Non-Main Track; USOR 701 – Position of Switches and Derails; and USOR 710 – Switches Run Through and assessed a 15-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

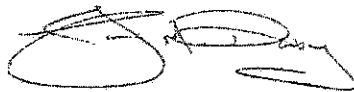
Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Moreover, whereas here the Claimant admits to the material facts underlying the charges such due process concerns cannot succeed.

Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. The Organization's claims that the Claimant was not at fault or should be excused from failing to stop his train prior to running through the are unpersuasive. Additionally, the level of discipline was not unreasonable under the facts of this case. The Claimant's actions herein constituted a Level 2 violation, and the assessment of a 15-days actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNipi  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                      BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jerry Baker for the unwarranted discipline of 20 days Actual Suspension from service (June 28, 2020 through July 17, 2020) assessed to Engineer Baker. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR I - Duty Reporting or Absence.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On June 16, 2020, the Carrier conducted an investigation in connection with the Claimant’s alleged violation of the Carrier’s Management Attendance Guidelines (“AMG”). Specifically, the evidence adduced at the investigation established that Claimant was absent on April 22, 2020, May 6, 2020, and June 5, 2020. The Carrier


considered the latter absence to be Claimant's third occurrence of an unexcused absence within a 12-week period.

Therefore, on June 26, 2020, the Carrier notified the Claimant that he was found to be in violation of USOR Rule I - *Duty-Reporting or Absence* and assessed a 20-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that alleged violations prejudiced the Claimant in any way. Turning to the merits, the Board concludes that the Carrier present substantial evidence to support the alleged violation herein. Furthermore, the penalty imposed is consistent the Carrier's discipline policy and the AMG. Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022

Marcus Ruef, Organization Member

SAKNpil'

Steve Napierkowski, Carrier Member





**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:            BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Russell Wigley for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on June 24, 2020. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of Attendance Guidelines for Unionized Employees.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On June 10, 2020, the Carrier conducted an investigation in connection with the Claimant's alleged violation of the Carrier's Management Attendance Guidelines ("AMG"). Specifically, the evidence adduced at the investigation established that Claimant was absent on May 10, 2020, May 16, 2020, and May 29, 2020. The Carrier considered the latter absence to be Claimant's third occurrence of an unexcused absence within a 12-week period.

Therefore, on June 24, 2020, the Carrier notified the Claimant that he was found to be in violation of USOR Rule I - *Duty-Reporting or Absence* and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that alleged violations prejudiced the Claimant in any way. Turning to the merits, the Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. Nonetheless, it concludes that the penalty imposed was too severe. The Claimant has a lengthy tenure with the Carrier and presented evidence that showed that on the three days in question he was under a physician's care for anxiety. Although the Claimant had an obligation to secure appropriate FMLA documentation and apply for such leave, his failure to do so under the facts of this case did not warrant termination given the evidence showing he had a legitimate illness. For this reason, the Board has determined he should be returned to service but without backpay.

Accordingly, the claim is sustained in part and denied in part.

**AWARD**

Claim sustained in part and denied in part consistent with the findings above.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNpil  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

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ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Wilson for the unwarranted discipline of 30 days Actual Suspension from service (June 26, 2020 through July 25, 2020) assessed to Engineer Wilson. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of ABTH – 314 Emergency Brake Application.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On June 11, 2020, the Carrier conducted an investigation in connection with an incident on March 11, 2020, where he allegedly improperly handled his train. Specifically, the evidence adduced

at the investigation established that on the day in question the Claimant was operating his train on Main 1 from Woodstock to Harrison Yard. His train was travelling at 38 MPH while in Notch 3 when he entered Notch 2, which resulted in a slack-stretched train. Seconds later, his train went into emergency and thereafter the independent brake pressure began building to 69 pounds over approximately 16 seconds, with no evidence the Claimant ever actuated the independent brake.

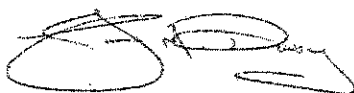
Consequently, on June 26, 2020, the Claimant was notified he was found in violation of Air Brake and Train Handling ("ABTH") 314 – Emergency Brake Application and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. Thus, the evidence shows that the Claimant failed to continuously activate the independent brake and failed to apply the least amount of brake cylinder pressure to control his train, as required by ABTH 314. The Claimant's actions herein constituted a Level 2 violation, and the assessment of a 30-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member



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Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Charles Murphy for the unwarranted discipline of 15 days Actual Suspension from service (July 28, 2020 through August 11, 2020) assessed to Engineer Murphy. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 520 – Movement on Non-Main Track.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On July 15, 2020, the Carrier conducted an investigation in connection with an incident on June 25, 2020, where he allegedly failed a stop test. Specifically, the evidence adduced at the investigation established that on the day in question the



Claimant was working as engineer on Train Q19491-24 with Conductor Scott Christian. At approximately 0835 hours, the Claimant and Conductor Christian were in the process of heading south on the Inbound Lead at Hulet when they approached a simulated improperly lined switch/stop test that was arranged by Transportation Manager/Trainmaster Brian Felts. Upon approach, Christian was in the process of exiting the cab and preparing to dismount the engine and, while doing so, saw the flags and tried to alert the Claimant to stop the movement via the radio. The Claimant failed to see the flags and failed to stop his movement prior to running over the flags.

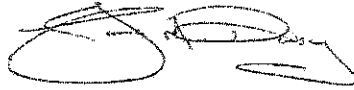
Consequently, on July 28, 2020, the Carrier notified Claimant that he was found to be in violation of USOR Rule 520 (a Level 2 infraction) and assessed him a 15-day actual suspension. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. Thus, the testimony and evidence show that the Claimant clearly failed to stop his train prior to the banner that was set up to simulate the improperly lined switch. The Organization's claim that USOR Rule 520 is inapplicable because the incident occurred on a main line, as opposed to a non-main line, is not supported by the record evidence. Furthermore, the Claimant's actions herein constituted a Level 2 violation, and the assessment of a 15-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napierkowski  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Tillman Doss for the unwarranted discipline of 30 days Actual Suspension from service (August 19, 2020 through September 17, 2020) assessed to Engineer Doss. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 520 – Movement on Non-Main Track and USOR 701 – Position of Switches and Derails.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On August 7, 2020, the Carrier conducted an investigation in connection with an incident on May 11, 2020, where he allegedly improperly ran through a switch at Champaign, IL. Specifically, the evidence adduced at the investigation established that on the day in

question the Claimant and his conductor were running on Track 4C at the Champaign Yard for the purpose of yarding the train. While doing so the yardmaster directed them to tie down, and the crew complied. Thereafter, the yardmaster directed them to proceed to the north end of the Yard, at which time the Claimant pulled ahead through the 2C switch which was not lined for his movement.

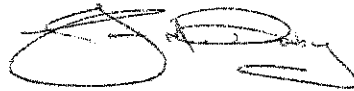
Consequently, on August 19, 2020, the Claimant was notified he was found in violation of USOR 520 – Movement on Non-Main Track and USOR 701 – Position of Switches and Derails and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. The Claimant's actions herein constituted a Level 2 violation and given the Claimant's prior disciplines the assessment of a 30-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNpil  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Theophus Turner for the unwarranted discipline of 30 days Actual Suspension from service (August 13, 2020 through September 11, 2020) assessed to Engineer Turner. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 701 – Position of Switches and Derails and USOR 710 – Switches Run Through.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On August 4, 2020, the Carrier conducted an investigation in connection with an incident on July 2, 2020, where he allegedly improperly ran through a switch at Memphis, TN.

Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and his conductor were moving cars within Harrison Yard at which time Claimant's train ran through Dog Leg Switch by the C Yard bridge.

The incident occurred after the yardmaster instructed the crew to bring its train through Track R3 and double to Track R7. The conductor left the train to line them out of Track R3, and the Claimant started pulling out of Track R3 when he failed to observe the Dog Leg Switch was lined against his movement.

Consequently, on August 13, 2020, the Claimant was notified he was found in violation of USORs 701 and 710 and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. The Claimant's actions herein constituted a Level 2 violation and given the Claimant's prior disciplines the assessment of a 30-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman



Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

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Steve Napierkowski, Carrier Member



**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Michael Stanley for the unwarranted discipline of 30 days Actual Suspension from service (September 15, 2020 through October 14, 2020) assessed to Engineer Stanley. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 712 – Derail Location and USOR 701 – Position of Switches and Derails.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On September 1, 2020, the Carrier conducted an investigation in connection with an incident on April 4, 2020, in Dubuque, IA, where his train allegedly derailed. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and his

conductor pulled their train up "tight" to an industry siding's derail and waited for an employee to unlock the gate and handle the derail. After claiming he observed the employee placing the derail in the derailing position, he proceeded to move forward at which time his lead truck derailed. The evidence shows that when he moved the train, he did not have a visual on the derail.

Consequently, on September 14, 2020, the Claimant was notified he was found in violation of USORs 712 and 701 and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. He exercised poor judgment by relying on a non-crew member to operate the derail and assuming it was properly handled. The Claimant's actions herein constituted a Level 2 violation and given the Claimant's prior disciplines the assessment of a 30-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napier  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Akinni Snodgrass for the unwarranted discipline of 45 days Actual Suspension from service (September 26, 2020 through November 9, 2020) assessed to Engineer Snodgrass. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 850 – Where Stop Must be Made.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On September 11, 2020, the Carrier conducted an investigation in connection with an incident on August 25, 2020, where he allegedly passed a red flag at North Helvetia. Specifically, the evidence adduced at the investigation established that on the

day in question the Carrier was performing a dynamic stop test on Claimant's train. The train passed a waving red flag without stopping.

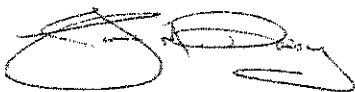
Consequently, on September 25, 2020, the Claimant was notified he was found in violation of USOR 850 and assessed a 45-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. However, since one of the previous disciplines assessed against the Claimant has since been overturned, the Board concludes that the instant discipline shall be reduced to a 30-day suspension and the Claimant shall be reimbursed accordingly.

Accordingly, the claim is sustained in part and denied in part.

### AWARD

Claim sustained in part and denied in part, consistent with the foregoing.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Nihil  
Steve Napierkowski, Carrier Member



**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer James Herndon for the unwarranted discipline of 30 days Actual Suspension from service (August 29, 2020 through September 27, 2020) assessed to Engineer Herndon. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 501 – Speed and ABTH 300 – Train Handling General Procedures.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On September 16, 2020, the Carrier conducted an investigation in connection with an incident on August 29, 2020, on the St. Louis Subdivision, where he allegedly failed to

have proper peer-to-peer communication concerning upcoming speed restrictions and exceeded the maximum authorized speed. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant was working as engineer on Train L54891-28 with Conductor Quinn Scott on-duty at 1859 hours on August 28, 2020. At approximately 0049 hours on August 29th, or shortly before, the Claimant and his conductor passed 74<sup>th</sup> Street crossing on the St. Louis Subdivision, approximate milepost 9.63, going toward a speed restriction of 10 miles per hour in effect at milepost 8.05. Within approximately 500 feet from milepost 8.05, Mr. Scott saw that they were traveling at 27 miles per hour and mentioned to the Claimant that they should be slowing down. When looking over toward the Claimant, he noticed the Claimant was asleep and yelled several times until the Claimant woke up and responded. On August 30th, upon further reflection, Mr. Scott informed the Company of what transpired at approximately 0049 hours on August 29<sup>th</sup>

Consequently, on September 23, 2020, the Carrier notified the Claimant he was found in violation of USOR 501 – Speed and ABTH 300 – Train Handling General Procedures and assessed a 30-day actual suspension from service. After the Organization’s appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization’s procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. Specifically, the testimony and evidence demonstrated that the Claimant was traveling at approximately 27 miles per hour when he entered a speed restriction of 10 miles per hour. The Organization’s arguments for overturning the discipline are unpersuasive. Claimant is responsible for knowing his location at all times on the track and for ensuring that he is complying with all speed restrictions. This requirement applies regardless of whether others allegedly failed to timely notify him of the restriction or whether there was alleged GPS interference. .Conductor Scott admitted

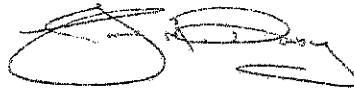


the train was travelling 27 miles per hour when it entered the speed restriction. .  
Furthermore, the Claimant's actions herein constituted a Level 3 violation and given the  
Claimant's prior disciplines the assessment of a 30-day actual suspension was consistent  
with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napierkowski  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jesse Gantt, Jr. for the unwarranted discipline of 60 days Actual Suspension from service (September 7, 2020 through November 5, 2020) assessed to Engineer Gantt. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 850 – Where Stop Must be Made and USOR 520 – Movement on Non-Main Track.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On September 12, 2020, the Carrier conducted an investigation in connection with an incident on September 7, 2020, on the Joliet Subdivision, Chicago, Ill. where he allegedly ran through a stop signal. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant was pulling 49 cars

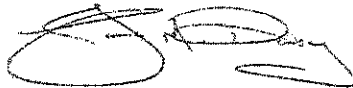
southward towards the 47 crossover at Glenn Yard. While doing so, his train passed the 47 signal displaying a stop indication. Claimant then notified the yardmaster that he had run through the stop signal. Consequently, on September 28, 2020, the Claimant was notified he was found in violation of USORs 850 and 520 and assessed a 60-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. At his investigation the Claimant admitted that his train slid past the stop indication. The Claimant's actions herein constituted a Level 3 violation and given the Claimant's prior Level 2 violation the assessment of a 60-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

*Marcus Ruef* June 3, 2022

Marcus Ruef, Organization Member



Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                      BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Marcus Jackson for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on October 9, 2020. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of USOR 502 – Shoving Movements and USOR 701 – Position of Switches and Derails.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On September 24, 2020, the Carrier conducted an investigation in connection with an incident occurring on September 7, 2020, wherein three cars on the Claimant's train derailed in Clinton, Ill. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and his conductor were travelling south on the Charter Line with 14 cars and two engines to switch out cars at an industry siding. While at a crossing to the industry, the conductor directed Claimant to shove 12 cars to another crossing. This was the last communication the conductor heard back from Claimant. Meanwhile, the conductor saw a derail on the track ahead, so he notified the Claimant when they had nine cars to a stop, then when there were five cars before the stop. Hearing nothing back from Claimant the conductor told the Claimant multiple times to "plug it," but by the time Claimant stopped the train it was past the derail by approximately 2.5 to 3 car lengths resulting in damage and a derailment.

Therefore, on October 9, 2020, the Carrier notified the Claimant that he was found to be in violation of USORs 502 and 701 and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that alleged violations substantially prejudiced the Claimant in any way. Turning to the merits, the Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. USOR 502 required Claimant to stop his movement within half the range of vision short of a derail. In this case, it would have been half the distance from where he was last given instructions from the conductor (12 cars to stop).

While the parties debate over whether Claimant stopped his train within six car lengths, the fact remains a derailment took place in a publicly travelled area causing damage to equipment and a serious risk public safety. It is clear the crew failed to adequately maintain peer-to-peer communication regarding the location of the derail. Moreover, regarding the Claimant's specific responsibility here, to continue to travel at 8

MPH after being told he had 12 cars to a stop (without hearing any further count down from the conductor), and just assuming he was clear for movement in a public setting, was clearly an unsafe decision.

Finally, the Claimant's actions herein constituted a Level 2 violation and given the Claimant's prior Level 3 and Level 2 disciplines, the assessment of a dismissal was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNIL  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jose Luis Gonzalez-Martinez for the unwarranted discipline of 15 days Actual Suspension from service (October 20, 2020 through November 3, 2020) assessed to Engineer Gonzalez-Martinez. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR 520 – Movement on Non-Main Track, USOR 701 – Position of Switches and Derails, and ABTH Rule 300 – Train Handling General Procedures.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On October 5, 2020, the Carrier conducted an investigation in connection with an incident on September 27, 2020, where Claimant allegedly failed to stop before sideswiping another train

resulting in equipment damage. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and conductor were pulling their train through A Yard to head north on the MA14 track. The Conductor left the train to line them out of the MA14 track. At the same time, another train was pulling through A Yard from MA17 Track. After the conductor confirmed his train was lined for movement out of MA14 Track, Claimant proceeded to move out of MA14 long nose forward, and while proceeding on a curve he observed the oncoming switch was lined against him. By the time he was able to stop the train it was fouling the switch and had side-swiped the other train on MA17 Track.

Consequently, on October 20, 2020, the Claimant was notified he was found in violation of USORs 520, 701 and ATBH Rule 300 and assessed a 15-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

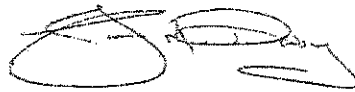
Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Although the Carrier cited two rules in the charge letter that were ultimately deemed to be typographical errors, USOR 520 was cited. Turning to the merits there is substantial evidence showing that the Claimant violated USOR as alleged. At his investigation the Claimant admitted that he failed to identify the location of the other train and failed to stop his train within one-half the range of vision from the other train. The Claimant's actions herein constituted a Level 2 violation which warrants the assessment of a 15day actual suspension pursuant to the Carrier's Discipline Policy.

Accordingly, the claim is denied.



**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNIL  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Appealing the Carrier’s unwarranted dismissal from service assessed to Engineer Jarin Myles on September 28, 2020. Claiming payment for all time lost, immediate reinstatement to service and all notations from his personal work record resulting from his dismissal from service. This claim shall include pay for all time lost, restoration of all Railroad Retirement Credits, including all costs for Health and Welfare benefits, and loss of such benefits during the time of dismissal. This claim also includes the Claimant’s return to service, with seniority rights unimpaired, and restoration of all vacation entitlements, personal leave days, and all other employment related benefits he would have received while in active service.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. Claimant has a seniority date of April 7, 2014. Thereafter, he accepted a management position as

Assistant Trainmaster. Subsequent to being promoted the Claimant engaged in activities that the Carrier determined were in violation of its Code of Conduct, and it terminated his employment effective September 28, 2020. By letter dated September 29, 2020, the Organization requested that pursuant to Article 29, Para. B of the parties' Agreement the Claimant be permitted to exercise his seniority to mark up as an engineer. The Carrier denied this request, claiming that as a management employee the Claimant was an at-will employee and had been terminated. Therefore, as a former employee he no longer had recourse to the Agreement's benefits/provisions covering engineers. After the Organization's appeal was denied by the Carrier, the matter was submitted to this Board for resolution.

Article 32, Section 4 of the Agreement provides that "[e]ngineers accepting official positions with the Company ... will retain their seniority while holding such position, the same as if continually in engine service." Article 29, para. B provides that "no engineer shall be disciplined without a fair hearing (investigation) by an officer of the Company." Many rail agreements contain similar language providing for craft employees to be promoted to management provisions without relinquishing their seniority rights to return to the bargaining unit should they choose to do so at a later date. In many cases, as here, to retain this right the employee must continue to pay dues or a fee to the organization. Not surprisingly, issues arose as to what occurs when the promoted employee engages in misconduct that leads to his or her termination from the management position. Does this extinguish the employee's contractual right to return to the craft since they are no longer an employee with the Carrier? Or does it merely trigger the promoted employee's right to return to his or her craft position or, at the very least, to have an investigation prior to being dismissed from the Carrier?

As set forth in the parties' submissions, referees have reached differing results when analyzing these cases. Fortunately, this Board is not operating on a clean slate with respect to how this issue has been handled on this property and under this Agreement. Thus, on two separate occasions – in 2004 and more recently, in 2014 – the

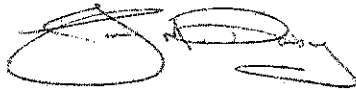
1st Division concluded that by terminating a promoted employee who retained craft seniority the Carrier does NOT extinguish the employees right to exercise his or her seniority. See *1st Div. Awards 28082 and 26064*. This Board cannot find any compelling reason to set aside this well-established precedent on this property and under this Agreement.

The Carrier's contention that these prior Awards are flawed, inasmuch as they prevent it from terminating an employee who has undisputedly engaged in dischargeable misconduct, cannot succeed. Thus, Article 29, para. B simply provides the promoted employee the right to an investigation, nothing more. Therefore, in the event the promoted employee has violated the Carrier's rules or policies, the Carrier must simply conduct an investigation and provide substantial evidence of wrongdoing to sustain the termination action (no different than if the misconduct had occurred while the employee was performing service within the craft). This outcome provides an appropriate balance between management's right to enforce its rules and an employee's right to due process. To conclude otherwise, a craft employee could be promoted for the sole purpose of severing his or her employment. Furthermore, this resolution continues to encourage craft employees to take advantage of promotional opportunities without fear of losing their ability to challenge arbitrary or capricious determinations relative to their employment.

Accordingly, the claim is sustained.

**AWARD**

Claim sustained.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member



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Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:            BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Robert Bodkin for the unwarranted discipline of 15 days Actual Suspension from service (October 29, 2020 through November 13, 2020) assessed to Engineer Bodkin. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of USOR 502 – Securing Unattended Trains and Equipment, USOR 503 – Handbrake Test, and ABTH Rule 602 – Handbrakes.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On October 15, 2020, the Carrier conducted an investigation in connection with an incident on September 28, 2020, where Claimant allegedly left his train improperly secured. Specifically, the

evidence adduced at the investigation established that on the day in question the Claimant and conductor were shoving 106 cars into Track 3B at Centralia Yard. After doing so they left the train for the yard office. Before doing so Claimant applied the independent brake and the conductor applied handbrakes to the 3<sup>rd</sup> and 4<sup>th</sup> cars from the engine. It is undisputed that at no time were the automatic brakes applied to the train to test the handbrakes.

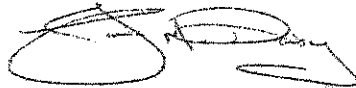
Consequently, on October 29, 2020, the Claimant was notified he was found in violation of the rules cited in the Notice of Hearing and assessed a 15-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated these rules as alleged. At his investigation the supervisors who observed the violations testified as to the failure to apply the automatic brakes. The Organization's claim that an unidentified carman was responsible for this oversight is not supported by the record evidence. Finally, the Claimant's actions herein constituted a Level 2 violation which warrants the assessment of a 15-day actual suspension pursuant to the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

*Marcus Ruef* June 3, 2022  
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Marcus Ruef, Organization Member

*SAK Napierkowski*  
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Steve Napierkowski, Carrier Member



**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Matthew Ross for the unwarranted discipline of 30 days Actual Suspension from service (October 27, 2020 through November 25, 2020) assessed to Engineer Ross. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of ABTH 201 – Taking Charge of Locomotive, ABTH 202 – Daily Locomotive Inspections, ABTH 2034 – Daily Locomotive Inspection Procedure, and USOR 710 – Switches Run Through.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On October 14, 2020, the Carrier conducted an investigation in connection with an incident on September

18, 2020, where Claimant allegedly failed to perform a proper brake test causing his train to run through a switch. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and conductor were in Harris Yard, where Claimant switched his lead and trailing locomotives. Thereafter, Claimant moved his train approximately 709 feet at which time the emergency brakes were applied. The train continued for another 293 feet and while doing so ran through the C8 switch that was lined against his movement.

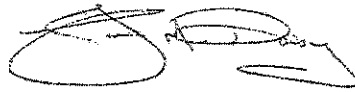
Consequently, on October 26, 2020, the Claimant was notified he was found in violation of the rules cited in the Notice of Hearing and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated these rules as alleged. At his investigation both he and the conductor admitted to not performing the brake test. Moreover, the Organization's attempt to argue that the brakes failed due to some foul play is irrelevant to the question of whether the crew had an obligation to perform a brake test. Finally, the Claimant's actions herein constituted a Level 2 violation which in light of the Claimant's record warrants the assessment of a 30-day actual suspension pursuant to the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napierkowski  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Donald Cain for the unwarranted discipline of 30 days Actual Suspension from service (October 30, 2020 through November 28, 2020) assessed to Engineer Cain. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of ABTH - 502 – Securing Unattended Trains and Equipment, ABTH 503 – Handbrake Test, and ABTH Rule 602 – Handbrakes.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On October 16, 2020, the Carrier conducted an investigation in connection with an incident on September 29, 2020, where Claimant allegedly failed to apply and test the

efficiency of handbrakes. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and conductor were working in Effingham Yard, where Claimant was observed cutting off approximately 15 cars without tying a handbrake and performing a securement test. Claimant then shoved another 66 cars into another track, after which supervisors verified that the handbrakes on the 15 cars were released and attended to the cars until the crew returned.

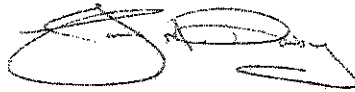
Consequently, on October 30, 2020, the Claimant was notified he was found in violation of the rules cited in the Notice of Hearing and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated these rules as alleged. At his investigation the observing supervisors testified consistently regarding what they detected on the day in question and the evidence shows that neither the Claimant nor the conductor were in a position to take safe and effective action in the event the cited cars were to begin to roll. Finally, the Claimant's actions herein constituted a Level 2 violation which in light of the Claimant's record warrants the assessment of a 30-day actual suspension pursuant to the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNIL  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Anne Panik for the unwarranted discipline of 60 days Actual Suspension from service (November 18, 2020 through January 16, 2020) assessed to Engineer Panik. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of OSOR 502 – Shoving Movements.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On November 3, 2020, the Carrier conducted an investigation in connection with an incident on September 28, 2020, where Claimant allegedly failed to stop her shoving movement

within half the distance of the last instruction provided by the conductor while shoving back. Specifically, the evidence adduced at the investigation established that on the day in question the Claimant, conductor and brakeman were shoving 17 cars into Main 1 near Rowell Chemical. Supervisors were conducting a dynamic shoving test and directed the conductor to give Claimant a count of cars and to provide no further instructions. She repeated the instructions and proceeded to shove approximately 1520 car lengths, which the Carrier contends is more than 1/2 the distance of the car count she was given.

Consequently, on November 18, 2020, the Claimant was notified she was found in violation of the rules cited in the Notice of Hearing and assessed a 60-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

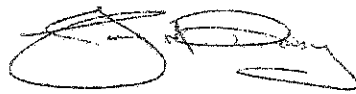
Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits the Carrier has failed to present substantial evidence showing that the Claimant violated USOR 502 as alleged. In this regard, there is confusion in the record regarding the car count provided to the Claimant. As such, it is difficult for this Board to find that the Claimant clearly violated USOR 502.

Accordingly, the claim is sustained.



**AWARD**

Claim sustained.



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James M. Darby, Chairman

*Marcus Ruef* June 3, 2022  
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Marcus Ruef, Organization Member

*SAKNYIL*  
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Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Anne Panik for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on November 18, 2020. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of USOR T - Sleeping.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On November 3, 2020, the Carrier conducted an investigation in connection with the Claimant's alleged sleeping while on duty. Specifically, the evidence adduced at the investigation established that on July 21, 2020, the Claimant and her crew were working near IMTT Industry on the Joliet Subdivision. As Claimant's supervisor boarded the engine through the window he observed the Claimant in a slouched position and her eyes closed/concealed. He knocked on the window and she did not move. The supervisor then entered the cab and Claimant woke up. She told her supervisor that she had a headache but was "okay."

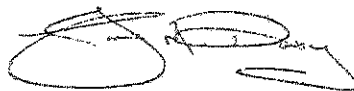
Therefore, on November 18, 2020, the Carrier notified the Claimant that she was found to be in violation of USOR Rule T - Sleeping and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

The Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. Nonetheless, it concludes that the penalty imposed was too severe. The Claimant has a lengthy tenure with the Carrier and presented evidence that showed that unbeknownst to her she was suffering from extremely high blood pressure on the day in question. Additionally, this Board in Award 317 has sustained the Organization's claim seeking to overturn Claimant's previous 60-day suspension. For these reasons, the Claimant shall be reinstated upon meeting all of the Carrier's return to work requirements, but such reinstatement shall be without back pay.

Accordingly, the claim is sustained in part and denied in part.

**AWARD**

Claim sustained in part and denied in part consistent with the findings above.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napierkowski  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jonathan Slayden for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on November 18, 2020. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of USOR H – Furnishing Information and Conduct.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On November 3, 2020, the Carrier conducted an investigation in connection with the Claimant’s alleged

posting of offensive and inappropriate messages/photos on social media. Specifically, the evidence adduced at the investigation established that on September 17 and 30, 2020, the carrier received complaints from anonymous employees regarding alleged offensive and harassing posts the Claimant was making on Facebook. The posts included such things as the use of the "n-word" and a picture of a noose, and how these posts were negatively impacting black employees working for the Carrier.

Consequently, on November 18, 2020, the Carrier notified the Claimant that she was found to be in violation of USOR Rule H and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Any delays were due to the Carrier needing sufficient time to investigate the origins of the complaints received. Furthermore, the inability to confront the anonymous employees who filed the complaints is immaterial, in light of the Claimant admitting to making the offensive posts.

Turning to the merits, the Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. The Claimant admitted to making the posts, which any reasonable person would conclude were offensive and inappropriate, especially given the tumultuous and racially divisive events occurring throughout the nation at that time. The Board is cognizant of employees' right to free expression on their own time. Nonetheless, the contents of the complaints the Carrier received regarding the posts created a sufficient nexus between Claimant's off-duty conduct and the workplace to justify disciplinary action. For this same reason, the fact he did not mention the name of his employer in the posts is irrelevant.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022

Marcus Ruef, Organization Member

SAK Napil

Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Robert Conley, Jr. for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on December 3, 2020. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of USOR 518 – Movement at Restrictive Speed.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.



On November 18, 2020, the Carrier conducted an investigation into an incident occurring on November 10, 2020, in connection with the Claimant's alleged failure to stop short of the foul zone of a simulated improperly lined switch at the Harrison Yard.

Specifically, the evidence adduced at the investigation established that on the day in question the Claimant and conductor were leaving the E Yard at Harrison Yard when the transportation manager set up a flag test to simulate an improperly lined switch at the E Yard Switch. While travelling at restrictive speed the Claimant ran through the switch by approximately 15 to 20 car lengths.

Consequently, on December 3, 2020, the Carrier notified the Claimant that he was found to be in violation of USOR Rule 518 and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits, the Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. Rule 518 required the Claimant to stop his train within one-half the range of vision short of the flagged switch, and he admitted he failed to do so in this case. The record fails to support the Claimant's contention he was unable to recognize the flag that was displayed on the switch. Furthermore, the discipline was reasonable since this was the Claimant's third Level 2 violation in three years and is consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napil  
Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                   BROTHERHOOD OF LOCOMOTIVE  
   ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Robert Dixon for the unwarranted discipline of 15 days Actual Suspension from service (November 25, 2020 through December 9, 2020) assessed to Engineer Dixon. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of Superintendent Notice #26.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On November 16, 2020, the Carrier conducted an investigation in connection with an incident on September 6, 2020, in Memphis, TN where he allegedly failed to clear the Mallory Bridge causing damage to auto racks on his train. Specifically, the evidence

adduced at the investigation established that on the day in question the Claimant and his conductor were shoving cars on the Valero lead toward a bridge at Mallory Street. Claimant had a consist of 15 auto rack cars and 35 tank cars, and the conductor was protecting the move at the lead end and was counting down cars to a derail under the bridge. After the derail was removed, the Claimant proceeded with his movement until he felt resistance, when it was discovered that the auto racks had hit the bridge causing damage.

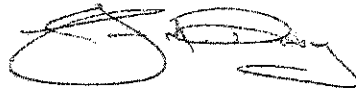
Consequently, on November 25, 2020, the Claimant was notified he was found in violation of Superintendent Notice #26 and assessed a 15-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rule as alleged. Claimant admitted he was aware of the rule and its requirements regarding the restricted height of the Mallory Bridge. The Claimant's actions herein constituted a Level 2 violation and the assessment of a 15-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member



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Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                      BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Lisa Ramsey for the unwarranted discipline of 30 days Actual Suspension from service (December 15, 2020 through January 13, 2020) assessed to Engineer Ramsey. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of USOR A – Safety, USOR 701 – Position of Switches and Derails, and System Bulletin Notice 16 (issue January 1, 2020).”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On December 1, 2020, the Carrier conducted an investigation in connection with an incident on November 16, 2020, when the Claimant allegedly failed to stop short of a

simulated improperly lined switch banner. Specifically, the evidence adduced at the investigation established that on the day in question the transportation manager set up a flag test simulating an improperly lined switch prior to the Claimant's train approaching the YMV/Rivergate Pass switch. Claimant and her conductor failed to stop before the flag, running over by three car lengths.

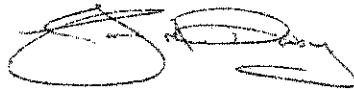
Consequently, on December 14, 2020, the Claimant was notified she was found in violation of the rules cited in the Notice of Hearing and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rule as alleged. Claimant admitted passed the flag banner and the record fails to support the Organization's claim that the banner was not properly placed or was not visible. The Claimant's actions herein constituted a Level 2 violation and the assessment of a 30-day actual suspension, in conjunction with her prior Level 2 violation, was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

*Marcus Ruef* June 3, 2022

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Marcus Ruef, Organization Member



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Steve Napierkowski, Carrier Member



**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                      BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Daniel Kerr for the unwarranted discipline of 30 days Actual Suspension from service (December 5, 2020 through January 3, 2020) assessed to Engineer Kerr. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day’s pay for attending the hearing for alleged violation of US Hazmat – Section VII – Key Trains, USOR 501 – Speed, USOR 104 – Duties of Trains and Engine Crews, and USOR W – Job Briefing/Peer to Peer Communications.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On December 15, 2020, the Carrier conducted an investigation in connection with an incident on December 5, 2020, when he allegedly was speeding in a high threat urban

area on the Yazoo Sub. Specifically, the evidence adduced at the investigation established that on the day in question Claimant was operating a key train in a high threat urban area with a maximum allowable speed of 35 MPH. The evidence shows that Claimant's train was operating between 45 and 48 MPH for at least eight minutes.

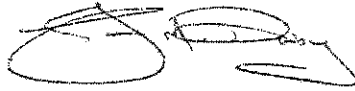
Consequently, on December 29, 2020, the Claimant was notified he was found in violation of the rules cited in the Notice of Hearing and assessed a 30-day actual suspension from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board, for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Turning to the merits there is substantial evidence showing that the Claimant violated the cited rules as alleged. Claimant and his conductor both admitted to exceeding the maximum allowable speed limit and the Organization's claims that the crew were too distracted by other required tasks cannot succeed. The Claimant's actions herein constituted a Level 3 violation and the assessment of a 30-day actual suspension was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member



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Steve Napierkowski, Carrier Member

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
   ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jaqwone Allen for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on January 4, 2021. This claim shall include all wage equivalents to which he is entitled, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the CN/IC Railroad for alleged violation of USOR I – Duty Reporting or Absence.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein.

On December 22, 2020, the Carrier conducted an investigation in connection with the Claimant's missed assignment on December 10, 2020. Specifically, the evidence adduced at the investigation established that on the day in question Claimant was called for assignment U75771-10 for an on duty time of 1645 hours. However, he missed calls placed to him at 1444, 1446, 1448, 1453, 1455, 1457, 1459 and 1300 hours. Claimant never called back or returned the phone calls. Claimant's failure to report to work on December 10, or appear at his investigation, was due to his being incarcerated at the time.

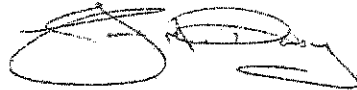
Consequently, on January 4, 2021, the Carrier notified the Claimant that he was found to be in violation of USOR Rule I and dismissed Claimant from service. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization's procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. The contention that Claimant was improperly withheld from service cannot be sustained for numerous reasons, not the least of which is that Claimant was not available to work due to his incarceration. Furthermore, the discipline was warranted, inasmuch as his absence was not an AMC violation, but rather, a Level 2 rule violation. In conjunction with Claimant's previous record, his dismissal was consistent with the Carrier's Discipline Policy.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAK Napierkowski  
Steve Napierkowski, Carrier Member