

Claimant on the NS 8339 reviewing a Positive Train Control (PTC) modification sheet at approximately 12:00 AM. In response to Ligon's question about his progress, Claimant stated that he had not performed any work since he was unfamiliar with PTC modifications. Rigon instructed him to continue on, and upon checking back around 1:45 AM reported to his superior, Mr. Robbins, that Claimant had still made no progress. Robbins entered the cab and found Claimant still reviewing several mod sheets with neither any materials nor tooling out in preparation for any tasks after the lapse of more than 4 hours. The record indicates Claimant had been given the assignment in question on the previous day and that he had received all appropriate training required for completing the tasks assigned.

Carrier's second charge centers on incidents occurring on January 2, 2018. According to Charging Officer Robbins, on the night of January 3, 2018, Electrician Luck informed him of a verbal altercation he had had with Claimant the previous night. Mr. Luck prepared a written statement setting forth a detailed account of Claimant's behavior a day earlier, including Slusser's repeatedly shining a flashlight in his eyes and informing Luck he had bid onto his team "just to mess with me." Luck further recounts having been asked by supervision if Claimant could perform a specific task and replying, "maybe, if I can catch him between naps." According to Luck, the remark got back to Claimant, who then approached Luck between 5:00-5:30 AM and directed a stream of insults, including calling him a "rat bastard," making references to rat poison, and placing 3 stickers on his hard, including "Tell On Me," "No Rats," and "I Got Lucked." Luck states Claimant threatened him by stating, "if it caused him to get fired it was going to be my ass."

Lastly, in the course of Carrier's investigation into his interactions with Mr. Luck, Claimant professed to have no memory of calling him a rat in front of others, ever placing stickers on his hard hat or locker or ever receiving training on the installation of PTC equipment. Evidence offered by multiple witnesses confirmed Carrier's assertions on all relevant points, and Claimant both retracted several of his earlier denials at hearing and offered what Carrier concluded were implausible explanations such as describing his "No Rats" sticker as a reference to keeping the eating area clean.

A careful reading of the record in its entirety forces the inescapable conclusion that the Organization has offered no persuasive evidence to justify vacating the discipline imposed. First, Claimant's extended unproductive time is not satisfactorily accounted for, and accordingly, Carrier's assertions on the point appear from this record to be entirely well-grounded. Secondly, no objective evidence is offered that might justify rejecting the judgment of Carrier's Hearing Officer that Claimant's statement and testimony regarding his interactions with Mr. Luck were less credible than the conflicting and disturbing evidence sponsored by Carrier officials and Claimant's co-workers, all affirming Carrier's allegations. For those reasons, the claim will be denied.

A W A R D

The Claim is denied.

Tom Owens
Tom Owens
Employee Member

James E. Conway
James E. Conway
Chairman and Neutral Member

Tara Arnett 02/11/2020
Tara Arnett
Carrier Member

Dated: January , 2020