

THE _____
TRAIN DISPATCHER

Register to Vote: www.usa.gov/register-to-vote
NOVEMBER 3, 2020 – PRESIDENTIAL ELECTION

ATDA MEMBERS



VOTE

YOUR JOB DEPENDS ON IT



Protect your Railroad Retirement

Retire with 30 years of service and age 60, earlier than Social Security Retirement Annuity, greater than Social Security

Occupational Disability, does not exist under Social Security
Sickness Benefits, do not exist under Social Security

Healthcare, Wages, Protection, Work Rules, Seniority

If National Bargaining is forced to a Presidential Emergency Board, the Board is selected by the President of the United States

Federal Employers Liability Act (FELA)

FELA has no compensation limit and entitled to a jury trial, worker's compensation is capped per a schedule and waive the right to sue

Legal Notice – Dues

Article 2, Section 4(b) defines the national dues rate. Effective October 1, 2020, the national dues rate is \$109.50 per month. System dues are determined separately by each system committee as shown below. To determine your monthly obligation, add the system dues amount shown below to the national dues rate.

4b. (1) The monthly National dues of all Active members of this Association, except as otherwise provided in this Section shall be determined annually by multiplying the average truck rail traffic controller (train dispatcher) total daily rate of pay (eight hours straight time pay plus allowances) in effect on July 1 by .295 and rounding up to the next five cents, provided such dues shall not be less than what was in effect on the preceding June 30.

(2) The monthly National dues for active members holding positions rated less than \$300.00 per day shall be determined annually by multiplying the average daily rate of pay (eight hours straight time pay plus allowances) in effect on July 1 for each craft by .295 and rounding up to the next five cents.

System Dues Rates –

Effective October 1, 2020

| | | |
|---------------------|------------------|------------------|
| ALASKA \$20.00 | KEOLIS \$15.10 | PanAm \$15.10 |
| AMTRAK \$17.85 | KIAMICHI \$10.00 | PATH \$18.35 |
| BNSF \$20.75 | L&I \$9.90 | SIRT \$18.65 |
| BRC \$20.15 | METRA \$17.35 | SOO \$17.90 |
| CONRAIL \$18.25 | MRL \$18.25 | SUNRAIL \$16.80 |
| CSX – South \$25.00 | NICTD \$13.90 | TRA \$33.40 |
| – East \$19.65 | NJT-P \$17.60 | TRI-RAIL \$18.95 |
| IHB \$21.15 | NJT-TD \$17.60 | WC \$19.45 |
| KCS \$19.65 | NS INT \$19.00 | |

Death Benefit Beneficiary

The Executive Board adopted the following policy change:

“If you have not designated a Beneficiary at the time of your death for any amount of benefits payable because of your death, the benefit amount will be paid to:

1. your surviving spouse, if any;
2. your surviving children, if there is no surviving spouse; or
3. your estate, if there are no surviving children.

Any payment will discharge our liability for the amount so paid.”

If you would like to establish a beneficiary or modify an existing beneficiary form, go to our website www.atda.org go to member forms and select ATDA Beneficiary Form. Print out the form and once completed, return the form to the Office of the Secretary-Treasurer.

AMERICAN TRAIN DISPATCHERS ASSOCIATION

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*Affiliated with the A. F. L./C.I.O
and the Transportation Trades
Department/Rail Division*

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From the President



In October 1918 the Spanish Flu ravaged our country resulting in 500 million people—one third of the earth's population—catching the flu and killing 50 million people around the world. It is estimated that 675,000 Americans died during this epidemic. During this tragic time,

there was a feeling of hopelessness that sickness and death were inevitable. Wearing masks and following restrictions set by local authorities were the only preventive means available to try and avoid contracting the flu. Complacency in the summer of 1918 led to an overwhelming loss of life. In 2020, the similarities are astounding. After "Stay at Home" mandates were followed in the spring and the number of cases and deaths fell, summer came and COVID-19 resurged with a vengeance, as employees returned to work, bars and restaurants reopened and people began to congregate in large numbers with little or no regard for social distancing or wearing masks. Incredibly, this has become a polarizing, political debate despite the human suffering and loss of life taking place every day. Some may say we are handling this pandemic with more ignorance and disregard for medical science than the world did in the Spanish Flu of 1918.

As our members and their families navigate the rough waters of this pandemic, I would like to turn to some important ATDA representational matters in this COVID-19 year. I reported in the last issue we were in National Negotiations with the Carriers and we met on February 26, 2020 for the first time. Because of the pandemic, it has been impossible to meet face to face and we agreed to a Zoom presentation where management presented two (2) PowerPoint presentations on healthcare and another on work rule changes. Since then, the Carriers informed us they wanted us to agree to changes in the National Healthcare Plan. We advised them these were topics of discussion for bargaining and cannot be changed without our concurrence. Given the Carriers reckless actions over the last several years, rail labor filed a lawsuit on August 5, 2020 against the nation's Class I railroad carriers in the United States District Court for the District of Columbia. The suit asks the court

to force the carriers to bargain in good faith over healthcare issues which have been the subject of collective bargaining.

In Arbitration, we were successful in returning to service with full backpay two of our dismissed members and on three other cases the dismissals were reduced to time served and these claimants were returned to service. The Wisconsin Central has consistently refused to comply with the language in the agreement which requires that the Carrier "supply the precise charges in writing, or the discipline must be set aside." The Organization convinced the Arbitrator that these cases should be sustained on procedural defects without ever getting to the merits. We had a similar situation on METRA where the agreement is clear that a Letter of Charge and an investigation must take place within 10 days of the Carrier's first knowledge of the alleged incident. The Arbitrator again sustained our position and overturned the discipline. You will find a synopsis of all these cases in this newsletter.

On the legal front, Mike Wolly, our General Counsel for decades, officially retired on May 31, 2020. We were fortunate to have such an authority on the Railway Labor Act (RLA) represent our membership through thick and thin. My best memories of Mike will always be his expert Parliamentary skills at our General Assemblies. He was always able to keep us on track on the business at hand. It is bittersweet to say goodbye to such a friend and advocate of the Organization for so many years, but we wish him well in retirement. Please look at Mike's accomplishments found on page five (5). On June 1, Kevin Brodar became ATDA's new General Counsel. Like Mike, Kevin comes to us with a strong railroad background and knowledge of the industry and will provide a seamless transition in representing our membership. Mike and Kevin worked closely together on many critical issues, including national bargaining. Please welcome Kevin to the ATDA family and read about his background on page four (4).

On a sad note, you will find enclosed stories on the passing of three (3) of our Brothers. I personally knew Bill Grimwood when he

From the President *(continued)*

worked as a train dispatcher in Youngstown, OH and I worked with his son Garry (now retired) for many years in the Pittsburgh office. Also, former General Chairman and retiree Phil Houle informed us of the passing of Brother Bill Proni Jr., and Brother Robert Grace. You will find enclosed articles on each of these ATDA long term members.

The ATDA family extends best wishes to BNSF rail traffic controller Barry Moore who retired on November 1, 2019 after almost forty-six (46) years of service in the rail industry. There is an excellent write-up on Brother Moore on page six (6).

You will find a list of the ATDA FELA Designated Counsel on page fifteen (15). These law firms agreed to rigid ATDA guidelines, including giving injured members free advice in connection with their injury, rendering free assistance to them in related matters and charging a contingency fee of no more than twenty-five (25%) percent. Our designated counsel will make themselves available to attend System Committee membership meetings for the purpose of explaining to members their rights under the Federal

Employers' Liability Act. If any ATDA officer or member should have a question about ATDA Designated Counsel, please call the National Office at 216-251-7984.

In closing, we congratulate our twenty-four (24) 2020 scholarship winners listed on page fourteen (14). Last fall, at the 33rd General Assembly in Las Vegas, NV, the delegates voted to increase the scholarship fund to \$30,000. A special thanks to former General Chairmen Gordy Smith and Phil Houle and current NS General Chairman Reggie Vincent for their diligent work on the ATDA Scholarship Selection Committee.

Until next time, I urge all our brothers and sisters to vote in the November 3rd presidential election. The future of all working-class families is at stake.

Fraternally yours,



Leo McCann
President

American Train Dispatchers Association

Kevin Brodar, ATDA's New General Counsel



Mr. Brodar is a native of Pittsburgh, PA, but has lived in Spokane, WA, and Washington, DC. He now resides in the Cleveland, OH area. He has deep ties to the rail industry as his father worked as a Conductor for 54 years with the

Pennsylvania Railroad, Penn Central and Conrail, and was a BRT and UTU member. His brother and other family members also worked in the industry in various crafts, belonging to BLE, UTU and BRAC. Mr. Brodar has a Bachelor of Arts degree from Duquesne University, a Juris Doctorate degree from Gonzaga University, and a Masters of Law in Labor Law from Georgetown University. He began his practice of law with the National

Labor Relations Board in Washington, DC in 1986. He then moved to become the first in-house counsel for the then-Brotherhood of Locomotive Engineers in 1989. In December 1991, he took the position of Associate General Counsel for the then-United Transportation Union where he was responsible for advising officers on all levels and adjudicating and litigating a myriad of issues involving the Organization. In February 2012, he was appointed as General Counsel for UTU, now the SMART- Transportation Division. He is a member of the American Bar Association, and is Union Co-Chair for the ABA's EEO Subcommittee. He is also a member of the ABA's Railway Labor Act and Dispute Resolution committees and has been a contributing editor to BNA's The Railway Labor Act and Employment Discrimination Law treatises.

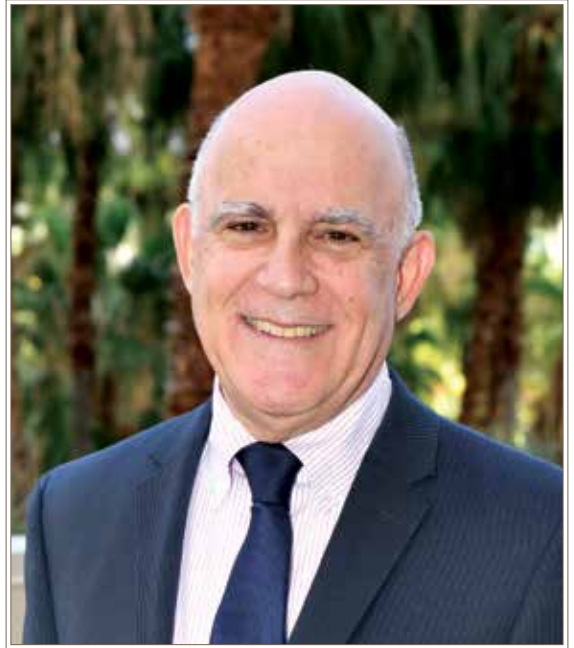
RETIREMENT

Mike Wolly

At the end of May, our long-time General Counsel Mike Wolly retired. Mike had represented the Organization since the early 1980s and became our General Counsel in June 1993. Over the years, Mike was involved in many complex lawsuits and administrative proceedings for the Union involving disputes under the Railway Labor Act, the Interstate Commerce Act, and federal employment discrimination statutes. He represented ATDA before federal courts across the United States, the National Mediation Board, the Surface Transportation Board, the Federal Railroad Administration, the EEOC and in many New York Dock arbitrations. He was also our counsel in national negotiations and before Presidential Emergency Boards.

Among the many successful outcomes Mike achieved for us were cases that (1) conclusively established that carriers are not entitled to seek damages for strikes over minor disputes, (2) precluded carriers from forcing employees to use their paid vacation and personal leave for FMLA purposes, (3) established that a carrier may not refuse to mediate Section 6 disputes wherever the NMB tells it to, (4) secured Railroad Retirement Act coverage for train dispatchers employed by private companies that are not themselves railroads, and (5) required that, absent a waiver or an emergency, all dispatching of railroad operations that occur in the United States be performed in the United States.

Beyond these achievements, Mike was a close advisor to Presidents Irvin, Clifford, and McCann and the Executive Board for nearly three decades. He also served as the parliamentarian for eight of our quadrennial General Assemblies.



At the time of his retirement, Mike had represented rail labor for 45 years. He also served as General Counsel for BLET, NCF&O and the IBEW Railroad Coordinating Council and was honored as a long-time Fellow in the College of Labor and Employment Lawyers.

Mike's late wife Val created the beautiful artwork that adorns our headquarters building and was featured on covers of *The Train Dispatcher*.

At the 30th General Assembly in 2007, Mike was bestowed the status of ATDA Lifetime Honorary Member.

RETIREMENT

Barry Moore

Barry Moore retired November 1st, 2019 after almost 46 years of railroading. His career began on Jan 2, 1974 in Del Rio, Texas with the Southern Pacific Transportation Company, San Antonio Division as an assistant signalman (i.e. ditch digger) upgrading the existing ABS signal system to CTC. As a signalman he worked between Sherman, Texas and El Paso, Texas and belonged to the Brotherhood of Railroad Signalmen.

In June 1979 he transferred to engine service as a locomotive fireman in Ennis, Texas on the SP H&TC seniority district of the San Antonio Division and took promotion to locomotive engineer in September 1980 working between Sherman, Austin, San Antonio and Houston and belonged to both the United Transportation Union and the Brotherhood of Locomotive Engineers.

In May 1989 he left SP and went to work for the National Railroad Passenger Corporation as a passenger engineer and worked out of San Antonio, Texas towards Fort Worth, Houston and Alpine, Texas. He remained a member of the BLET.

In January 1995 he went to work for the Burlington Northern Railroad as a locomotive engineer working out of Gillette, WY and Alliance, NE on the Powder River Division.

In September 1996 he began dispatcher training for the BNSF Railway at the Fort Worth Network Operations Center and established his dispatcher seniority in October 1996. He worked primarily the Nebraska and Powder River Divisions from Kansas City to Gillette. He remained a rail traffic controller until he retired. He finished his dispatching career

on the same desk he qualified on in the beginning, DS McCook East, with 15 other desks in between. His favorite and most challenging desk was DS Omaha but McCook had better rest days. He retired as a member of the ATDA.

Barry and his wife Juanita have three children. They are retiring together and are building their retirement home on a farm.



They will travel and explore the U.S.A. and when not traveling, visit and spend time with their grandchildren, taking them fishing and camping. During their travels they will also visit pediatric cancer wards at children's hospitals spending time reading books to children. In honor of their late granddaughter, Brooke, they will also be donating to the children who have lost their hair during harsh cancer therapies, pretty handmade head pieces from Brooke's Blossoming Hope for Childhood Cancer Foundation.

Brother Barry Moore said, "Lots of good memories and good people I have had the pleasure to work with. Railroading is not for everyone. It is truly a career, not just a job."

OBITUARIES

Robert A. Grace

Robert A. Grace passed away on June 19, 2020, at the Stratton VA Community Living Center. Bob was raised in Fair Lawn, N.J. and relocated to Albany in 1999 to continue his position as assistant chief dispatcher for CSX Railroad. He was the loving, dedicated husband of Nancy Coshun Grace; father of Dennis (Alexis) Grace of Budd Lake, N.J. and Melissa (James) Morehouse of Latham. Bob was the fun loving Poppy of Tierney R. Morehouse of Latham. Also survived by his sister Diane Heinz of Ballston Spa, and several nieces and nephews. Bob's quest in life was to bring smiles and laughter to all he knew with his lame jokes and unique sense of humor. A true fan of the N.Y. Yankees, he had the honor

of being recruited to try out for the team three times. Though unsuccessful, he was proud to have had the opportunity to try to join the team he loved. Bob was an all around athlete in his younger years, an avid bowler and ran track. Bob was a Vietnam veteran (1965-1967), U.S. Army and received many combat medals and ribbons. He was proud to serve his country. Nancy wishes to express her sincere and heartfelt thanks to the amazingly dedicated staff of Unit 9 Bravo Heroes Way at the Stratton V.A. They have always gone above and beyond in the care and support of Bob while he was a resident of the CLC. You will each forever hold a very special place in Nancy's heart.

William S. Grimwood Sr.



William S. Grimwood, Sr., of Canfield, Ohio, formerly of Brookfield & Hubbard, Ohio, passed from this life on Tuesday, May 26, 2020, while a patient in Select Specialty Hospital, of Boardman, Ohio, following a period of declining health. He was 90.

William was born in Smithfield, Pennsylvania, on June 11, 1929, a son to Chester & Nellie (Walters) Grimwood.

He worked as a railroad train dispatcher for Conrail Corporation, of Youngstown, Ohio. His career began in 1952 and he dedicated 33 years to the company until his retirement in 1985.

He was a member of the Royal Arcanum Republic Council #2197, from 1952 till 2020, where he was a past officer. In his spare time,

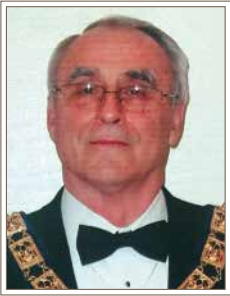
he enjoyed listening to Country Music, playing a round of golf, and bowling. In addition, he loved watching both the Cleveland Indians and Browns.

Survivors include: his sons, Garry E. Grimwood & his wife Kathleen, of Pittsburgh, Pennsylvania, and William S. Grimwood, Jr. & his wife Kathleen, of Hubbard; his daughters, Pamela J. Grimwood, of Massillon, Ohio, and Rhonda L. Grimwood, of North Canton, Ohio; his seven grandchildren, Garry II, Kimberlina, Andrew, Daniel, David, and Haley Grimwood, and Shannon Webb; his five great-grandchildren, Breanna, Dane, Nicole, Xavier, and Elena Grimwood; and his nephews and niece, Lew Dewitt, Robert Grimwood, Jr., Donald Grimwood, and Jannette Worley.

He was preceded in death by his wife, Gloria Grimwood; by his daughter, Cynthia J. Grimwood; and by his siblings, Mary Jane Melhorne, and Robert Grimwood, Sr.

OBITUARIES

William "Bill" Proni Jr.



William Proni Jr., 74, of New Hartford, New York, passed away peacefully on Thursday, May 21, 2020 at St. Elizabeth's Medical Center in Utica.

He was born on March 5, 1946 in Austria, a son of the late William and

Mary (Lesjka) Proni. Bill served his country with dedication and honor in the United States Air Force with a tour of duty in Thailand. Later he served in the Army Reserves with the Elihu Root United States Army Reserve Center in Utica, retiring after 20 years of service.

On September 13, 1969 at St. Stanislaus Church in Utica, Bill was united in marriage to the love of his life Marilyn Pokucinski, a blessed union of over 50 years.

Mr. Proni was employed with CSX Railroad in Selkirk, NY as a Chief Dispatcher retiring in 2006 after thirty-six years of dedicated service.

William was a member of St. Thomas Catholic Church in New Hartford and active in the

New York Mills Seniors and Whitestown Seniors. He also was a steadfast member of BPOE Lodge #1439 in Herkimer where he was a Past Exalted Ruler, Past State Vice President, NYS Sgt. at Arms, and Trustee, among other positions. His enthusiasm led to attendance at many state and national Elks conventions and local events.

He was a loving husband, and father who cherished the time he spent with his family and had an immense passion for golfing and the Boilermaker. He also enjoyed gardening, bowling, animals, and volunteering at the annual Herkimer Elks car show.

William is survived by his wife Marilyn Proni of New Hartford, a son and daughter-in-law, Dr. Frederick and Terrie Proni of Hickory, NC, and leaves a sister and brother-in-law, Rose and Jack Lynch of Ilion. He also leaves a nephew Paul Lynch (Marcia) of Ilion, a niece Lindsay Jordan (Robert) of New York Mills, and great nieces and a great nephew. He was predeceased by his mother-in-law Maria Demetzensky, his sister Marylou Davis, and his brother Michael Proni.

RRB/SSA Comparison Chart Annual Amounts

| | RRB | SSA |
|--|-----------------|-----------------|
| Employee Age Annuity Being Paid* | \$43,740 | \$17,520 |
| Spouse Annuity Being Paid | \$12,780 | \$8,940 |
| Employee Age Annuity Awarded* | \$50,940 | \$23,820 |
| Spouse Annuity Awarded* | \$19,020 | \$11,940 |
| Disability Annuity Awarded | \$37,740 | \$16,500 |
| Occupational Disability Annuity? | YES | NO |
| Full Annuity at 60 with 30 Years? | YES | NO |
| Widow(er) Annuity Being Paid | \$21,180 | \$16,140 |
| Widow(er) Annuity Awarded | \$27,420 | \$15,840 |

*Career rail employee with at least 30 years of service. (The RRB figures do not include employees initially awarded an annuity based on disability.)

In an effort to inform the membership of some Arbitral Awards, below are summaries of some recent awards.

PLB No. 7578 Case No. 12, Neutral Newman – Metra

Failure to protect out of service limits/Carrier failure to hold investigation within time limits

A Daily Operating Bulletin was issued requesting that Track 1 be out of service for maintenance. It was later realized that the out of service track should have been for Track 2. When this information became known, the Claimant had a signal for movement lined on Track 2 and promptly changed the signal to stop. Claimant issued a block for Track 2, informing the Chief Dispatcher. A Letter of Charge was issued to the Claimant and an investigation was held on October 17, 2018. The Claimant was found guilty and issued a 5-day suspension. The Organization took the position that the Carrier violated the agreement which requires a Letter of Charge and an investigation within 10 days, stating that the Carrier was aware of the alleged incident on the day it occurred which was October 1, 2018, some 16 days prior to the investigation. The Carrier claimed, through testimony of the Chief Dispatcher, that its first knowledge of the incident was not until they received an anonymous note on October 7, 2018. The Claimant and the Load Dispatcher both testified reporting the incident to the Chief Dispatcher on October 1, 2018. The Board was convinced that the Carrier failed to meet the 10-day requirement and that the record proved that the Chief Dispatcher was aware of the incident on October 1, 2018.

Claim sustained

PLB No. 7650 Case No. 57, Neutral Bell – CSX Transportation

Failure to instruct crew to place switch in hand operation prior to issuing permission by stop signal.

In this dispute, the Carrier claimed that the Dispatcher violated several Rules when he failed to instruct a train crew to place a dual controlled switch in hand operation prior to issuing permission

by a stop signal which resulted in a derailment. The Claimant was found guilty after the investigation and dismissed. The Organization argued that the Claimant knew that the switch was already in hand operation since he had a previous crew place it in hand operation and they traversed without incident. The Carrier alleged that it did not relieve the Claimant from issuing the proper instructions for subsequent movements. The Board found that the Claimant understood hand operation and asked the crew to verify the route but did not properly instruct them to put the switch in hand operation. The Board found that his presumption fell short of the Rule's requirements, but based upon the unique circumstances, the Claimant shall be returned to his former position without back pay.

Claim sustained, in part, in accordance with the findings.

PLB No. 7650 Case No. 58, Neutral Bell – CSX Transportation

Failure to follow instructions to wait for a probable cause drug/alcohol test and leaving the property.

In this dispute, the Claimant was relieved from his regular assignment after an allegation that he smelled of alcohol. He was instructed to remain on the property to wait for a Breath Alcohol test to be administered. The charge also included an allegation of having empty beer cans in his vehicle. The Claimant did not wait for the test and left the property and went home. An investigation was held, and the Claimant was dismissed. The Organization argued, based upon the testimony, that the Claimant had a medical issue that caused him to go home immediately. He did contact his supervisor at some point after leaving and attempted to return for the requested test. The Carrier would not allow him to do so. The Claimant is a long-term employee with a clean discipline record. The Board rejected the argument surrounding the medical issues and found that there was sufficient evidence to meet the Carrier's burden of proof. The Board agreed that the Carrier has the sole discretion to provide a "Rule G Bypass". However, based on the unique circumstances of the case, the Claimant shall be returned without back pay and under the condition that he enters and fulfills the requirements of the Bypass Program.

Claim sustained, in part, in accordance with the findings.

PLB No. 7650 Case No. 59, Neutral Bell – CSX Transportation

Failure to follow instructions, being defiant and using vulgar language.

The Claimant in this dispute was working the first shift ACD position. An operating plan for the day had been issued regarding crew planning, maintenance work and train movements. The Claimant began working on a plan based upon his own experience. It was discovered by a supervisor that the plan was different from the one that had been issued. The supervisor issued clarification to the Claimant who said that he never saw the plan or instructions and was reminded of his requirement to read all applicable emails and correspondences. A meeting was held around noon the same day and further changes to the plan were made and communicated to the Claimant. The Claimant then changed the supervisor's plan regarding crew balancing and maintenance work back to his own plan. The supervisor confronted the Claimant and admonished him as well as requiring him to return to the plan. The Claimant then called a Train Master to complain about the plan. During that telephone call, the Claimant was recorded using vulgarity regarding his supervisor. An investigation was held, and the Claimant was dismissed. The Board found that not only was the insubordination proven, but it continued into the actual investigation. The gravity of the Claimant's offense, its deliberateness, was illustrated, explained, amplified and aggravated in the investigative transcript. The dismissal was upheld.

The claim is denied.

PLB No. 7644 Case No. 32, Neutral Bass – Wisconsin Central

Failure to properly issue General Bulletin Order protection for 10 mph restriction.

Claimant was working his regular 2nd shift position when he received notification of a 10-mph restriction on a switch. Claimant confirmed receipt and immediately placed a TAG on the location. He then created a GBO with the information and thought that he had placed it properly. At some point later in his shift, it was discovered that the GBO was in fact placed on the same Milepost location, but on a completely different Subdivision. The Carrier charged the Claimant

and an investigation was held. The Claimant was found guilty and issued a 30-day suspension. The Organization made numerous procedural arguments, but the Board found no merit to them. The Organization contends that the misplacement of the GBO on the wrong Subdivision was an error of the Carrier's PDS Dispatching System. Unfortunately, the Board found that this argument was not raised at the investigation and not until the appeal of discipline. Based upon that point, it was not considered as credible. The Board found that there was substantial evidence of a violation based upon the actual requirements of the Rules and that the discipline was not excessive or arbitrary.

Claim denied.

PLB No. 7644 Case No. 33, Neutral Bass – Wisconsin Central

Failure to protect speed restriction, accused not properly notified of charges

The Claimant in this dispute was working her regular 2nd shift assignment. A TAG was in place when the Claimant started her shift. The functionality prompted the Claimant to issue the restriction or to ignore it. Unfortunately, she clicked ignore. The Carrier removed the Claimant from service and scheduled an investigation. At the onset of the investigation, it became clear that the Claimant had not properly received the charges as required by the CBA. The language in the CBA, Rule 14 (C), requires that the Carrier "supply the precise charges in writing, or the discipline must be set aside." In this instance, the Claimant's only notification was by way of a phone call from the Carrier in which they read the Letter of Charge and never supplied it. The Organization made a timely objection and it was overruled. The Organization also argued that the charge was vague in nature and that mitigating circumstances contributed to the incident. The Board found insufficient evidence to support some of the Organization arguments, but found one was relevant, the violation of Rule 14, Section C. The Board found the evidence related to the service of the Notice of Investigation to be insufficient to satisfy the mandates of the parties' agreement. The Organization's advocate made a demand for the verification of mailing and none was provided. The hearing officer's response that there is a verbal recording of the contents of the letter being read to the Claimant is insufficient. When language is clear

and unambiguous, this Board must give effect to those words; the plain meaning is not subject to interpretation. Such language cannot be ignored, disregarded, or overlooked by the Board. An Award in favor of the Carrier would effectively modify the terms of the agreement. The Board finds that the procedural violation is material and will not proceed to the merits.

Claim sustained.

PLB No. 7644 Case No. 35, Neutral Bass – Wisconsin Central

Violation of Rule G, accused not properly notified of charges

The Claimant arrived for his shift on a special duty position which he had occupied for at least 18 months. Upon his arrival on the date in question, the Claimant was informed that he would be tested for a random drug/alcohol test under the Carrier's Policy. The breath test was conducted and a second one was done after 15 minutes. Both yielded positive results for alcohol. Claimant was removed from service and an investigation was scheduled. At the onset of the investigation, it became clear the Claimant had not properly received the charges as required by the agreement. The language in the CBA requires that the Carrier "supply the precise charges in writing, or the discipline must be set aside." In this instance, the Claimant's only notification was by way of a phone call from the Carrier in which they read the Letter of Charge and never supplied it. The Organization made a timely objection and it was overruled. The Organization also argued various other procedural defects that were never considered by the Board. The Board found that a review of the transcript indicates that the Organization advocate twice objected to the proceedings and asserted a violation of Rule 14, Section C. The Hearing Officer overruled and stated that the Carrier was compliant with the CBA by reading the charge over the phone. The Board disagrees without evidence of mailing and none was provided. The language is clear and has a self-executing provision. This Board finds that the Carrier cannot unilaterally modify the terms of the CBA, nor can this Board ignore the clear unambiguous language. The Claimant is reinstated with back pay subject to offset in interim earnings and evaluated for EAP assistance.

Claim sustained in accordance with the findings.

PLB No. 7644 Case No. 36, Neutral Bass – Wisconsin Central

The Carrier disallowed the proper exercise of seniority upon Claimant returning from a management position. Claim for pay for each day until the proper exercise of seniority is allowed.

This dispute involves a member holding an official Carrier position on seniority retention. On May 9, 2019, the Carrier dismissed the Claimant from her official position with the Carrier. The Claimant exercised her seniority in accordance with Rule 5 of the CBA on May 16, 2019. The Carrier refused to accept the exercise of seniority and relied upon Rule 5, Section G, which states "Any employee disciplined or terminated for cause (such as theft, altercation, Rule "G" violations, insubordination) who is on an official position, is not subject to Rule 14 – Discipline and 15 – Claims and Grievances". The Carrier argued that the Claimant was terminated for cause; therefore, she is not entitled to the provisions of Rule 14 including an investigation and also argued that the Organization is barred from filing a claim under Rule 15. The Organization made numerous requests for documentation showing that the Claimant was in fact "terminated for cause". In carefully reviewing and considering the on-property correspondence and parties' submissions, the record does not include the letter of termination establishing the cause for termination. The Organization made the demand for the letter and the Carrier failed to provide the letter. The Carrier bears the burden to establish that the employee who holds an official position was terminated for cause in order to terminate her seniority rights. Without the letter, the Board is unable to make that determination. The Board finds the Carrier improperly terminated the seniority rights of the Claimant and restores the same. As to remedy, the parties shall conduct a joint examination of the record to determine her back pay from the date of her request to mark up.

Claim sustained in accordance with the findings.

STATUS OF DISPUTES

| Docket | Carrier | Claimant | Subject | Status |
|--------------|---------|-------------------|-------------------------|---|
| PLB-7468-44 | KCS | E. Reed | Discipline | Sustained 7/31/2020 - Arb. Van Dagens |
| PLB-7468-45 | KCS | E. Reed | Discipline | Denied 7/31/2020 - Arb. Van Dagens |
| TD-190548 | WC | J. D. Fredrickson | Forfeiture of Seniority | Sustained 8/11/2020 - Arb. Bass |
| TD-190441 | CSX | L. Patrick | Discipline | Awaiting Decision - Arb. Zimmerman |
| TD-190444 | CSX | K. M. Graham | Temp. Vacancy | Awaiting Decision - Arb. Zimmerman |
| TD-190442 | CSX | M. D. Stewart | Discipline | Awaiting Decision - Arb. Zimmerman |
| TD-190443 | CSX | L. D. Riley | Discipline | Awaiting Decision - Arb. Zimmerman |
| TD-190439 | CSX | L. D. Riley | Discipline | Awaiting Decision - Arb. Zimmerman |
| TD-190440 | CSX | L. D. Riley | Discipline | Awaiting Decision - Arb. Zimmerman |
| PLB-7543-5 | TRRA | P. McFarland | Discipline | Sustained in part 5/28/2020 - Arb. Benn |
| PLB-7644-31 | WC | A. Kane | Discipline | Denied 6/28/2020 - Arb. Bass |
| PLB-7644-32 | WC | Y. Clements | Discipline | Denied 6/28/2020 - Arb. Bass |
| PLB-7644-33 | WC | M. Szymanski | Discipline | Sustained 6/28/2020 - Arb. Bass |
| PLB -7644-34 | WC | J. Hoogeveen | Discipline | Denied 6/28/2020 - Arb. Bass |
| PLB -7644-35 | WC | D. Redmond | Discipline | Sustained 6/28/2020 - Arb. Bass |
| PLB-7644-36 | WC | A. Morehouse | Seniority Retention | Sustained 6/28/2020- Arb. Bass |
| PLB-7644-37 | WC | M. Cleve | Discipline | Awaiting NMB Funding |
| PLB-7644-38 | WC | M. Fasel | Discipline | Awaiting NMB Funding |
| PLB-7644-39 | WC | M. Brown | Discipline | Awaiting NMB Funding |
| PLB-7644-40 | WC | K. Gebhardt | Discipline | Awaiting NMB Funding |
| PLB-7578-12 | Metra | F. McGlaston | Discipline | Sustained 6/8/2020 - Arb. Newman |
| PLB-7575-49 | BNSF | S. W. Brown | Discipline | Awaiting Decision - Arb. Meyers |
| PLB-7575-50 | BNSF | R. G. Richie | Discipline | Awaiting Decision - Arb. Meyers |
| PLB-7575-51 | BNSF | R. G. Richie | Discipline | Awaiting Decision - Arb. Meyers |
| PLB-7575-52 | BNSF | R. G. Richie | Discipline | Awaiting Decision - Arb. Meyers |
| PLB-7575-53 | BNSF | E. K. Mayfield | Discipline | Awaiting Decision - Arb. Meyers |
| PLB-7650-57 | CSX | T. B. Morton | Discipline | Sustained in part 6/29/2020 - Arb. Bell |
| PLB-7650-58 | CSX | J. D. Allen | Discipline | Sustained in part 6/29/2020 - Arb. Bell |
| PLB-7650-59 | CSX | T. Q. Brock | Discipline | Denied 6/29/2020 - Arb. Bell |
| PLB-7650-60 | CSX | L. G. Young | Deselection from ACNO | Case Dismissed 6/29/2020 - Arb. Bell |
| PLB-7650-61 | CSX | S. Barnes Jr. | Deselection from ACNO | Case Dismissed 6/29/2020 - Arb. Bell |
| PLB-7650-62 | CSX | T. R. Smith | Discipline | Denied 6/29/2020 - Arb. Bell |
| PLB-7650-63 | CSX | D. Marcovsky | Discipline | Denied 6/29/2020 - Arb. Bell |
| PLB-7650-64 | CSX | J. R. Herndon | Discipline | Awaiting Decision - Arb. Zimmerman |
| PLB-7650-65 | CSX | D. Neeley | Discipline | Awaiting Decision - Arb. Zimmerman |
| PLB-7650-66 | CSX | S. Barnes Jr. | Discipline | Awaiting Decision - Arb. Zimmerman |
| PLB-7650-67 | CSX | A. Larson | Discipline | Awaiting Decision - Arb. Zimmerman |
| PLB-7650-68 | CSX | K. Bartlett | Discipline | Awaiting Decision - Arb. Zimmerman |

STATUS OF DISPUTES

| Docket | Carrier | Claimant | Subject | Status |
|-------------|---------|----------------------|-------------------|--|
| PLB-6744-57 | NS | V. Morns | Discipline | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-58 | NS | Multiple | Vacation | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-59 | NS | Multiple | Scope | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-60 | NS | G. Orr | Discipline | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-61 | NS | E. Shores | Discipline | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-62 | NS | K. Armbruster | Discipline | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| PLB-6744-63 | NS | G. Parsley | Discipline | Hearing Scheduled 8/5/2020 - Arb. Twomey |
| ----- | | | | |
| PLB-7814-18 | BNSF | M. Carter | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-19 | BNSF | R. Smith | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-20 | BNSF | R. G. Richie | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-21 | BNSF | R. G. Richie | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-22 | BNSF | J. R. Wilkerson | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-23 | BNSF | M. L. Penney | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-24 | BNSF | D. Rosas | Discipline | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-25 | BNSF | J. B. Perry | Permanent Vacancy | Hearing Scheduled 9/15/2020 - Arb. Bell |
| PLB-7814-26 | BNSF | S. R. Burgin | Permanent Vacancy | Hearing Scheduled 9/15/2020 - Arb. Bell |
| ----- | | | | |
| PLB- | CSX | R. Farrington, et al | filling vacancies | Awaiting NMB Funding |
| ----- | | | | |
| PLB-7520-15 | AMTK | J. Cannon | Disqualification | Awaiting NMB Funding |

**WE'VE
GONE
THROUGH
THIS
BEFORE**

**This cartoon was published
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