

BLE

RULE 82. DISCIPLINE - PROCEDURE.

Rule was replaced by System agreement 02/28/1996

SYSTEM AGREEMENT - DISCIPLINE RULE

1. All existing agreements pertaining to the handling of discipline are eliminated and replaced by this agreement.

GENERAL

2. Locomotive engineers will not be disciplined without first being given a fair and impartial investigation except as provided below. They may however, be held out of service pending Investigation, but it is not intended that an engineer be held out of service for minor offenses.

NOTICE

3. Within 10 days of the time the appropriate company officer knew or should have known of an alleged offense, the engineer will be given written notice of the specific charges against him or her. The notice will state the time and place of the Investigation and will be furnished sufficiently in advance to allow the engineer the opportunity to arrange for representation by a BLE representative(s) (the BLE Local Chairman or other elected BLE Officers) and witnesses. The notice will propose discipline to be assessed if Investigation is waived and designate a carrier officer who may be contacted for the purpose of arranging for an informal conference on the matter. A copy of (he notice will be furnished to the BLE Local Chairman.

WAIVER

4. Prior to the investigation, the engineer (and the BLE representative if desired by the engineer) may contact the designated carrier officer and arrange for an informal conference to discuss the alleged offense and proposed discipline. Such informal conference may be either in person or by telephone.
 - a. If such Informal conference results In the proposed discipline being dropped, no further action will betaken.
 - b. If such Informal conference results In proposed discipline, being accepted by the engineer and the Investigation being

waived, the engineer's record will be updated accordingly.

c. If such Informal conference does not result in either (a) or (b) above or no informal conference takes place, the discipline imposed as a result of a hearing may not exceed that proposed in the notice of charges.

INVESTIGATION

5. Unless postponed for good cause, the Investigation will be held no later than 10 days after the date of the notice.
6. When practicable, the investigation will be held at the engineer's home terminal.
When that is not practicable, the investigation will be held at a location which will minimize the travel, inconvenience and loss of time for all employees involved.
When an engineer is required to travel to an investigation at other than his or her home terminal, the engineer will be reimbursed for actual, reasonable and necessary expenses incurred.
7. Where request is made sufficiently in advance and it is practicable, the engineer and/or the BLE representative will be allowed to examine material or exhibits to be presented in evidence prior to the investigation. At the Investigation, the engineer and/or the BLE representative will be afforded the opportunity to examine or cross examine all witnesses. Such examination will extend to all matters under investigation.
8. The investigation will be recorded and transcribed. Copies of transcript will be furnished to the engineer and the BLE Local Chairman no later than the date discipline is issued. If the accuracy of the transcript is questioned and the investigation was electronically recorded, the tapes shall be examined and, if necessary, the transcript will be corrected.
9. A written decision will be issued no later than 10 days after completion of the hearing.
The notice will be sent by US Mail to the last known address of the engineer and to the BLE Local Chairman.
10. If the Superintendent fails to issue a decision within such 10 day time limit or if the engineer is found not at fault, the engineer will be paid for any time lost and the engineer's record will be cleared of the discipline at issue.

APPEALS

11. If the engineer is not satisfied with the decision, the BLE General Chairman may appeal to the designated Labor Relations officer within 60 days from the date of the Superintendent's decision.
12. The Labor Relations officer will respond to the appeal within 60 days from the date of the BLE General Chairman's appeal. If the Labor Relations officer fails to respond within 60 days, the engineer will be paid for any time lost and the engineer's record will be cleared of the discipline at issue.
13. If the engineer is dissatisfied with the decision of Labor Relations, proceedings for final disposition of the case under the Railway Labor Act must be instituted by the engineer or his or her duly authorized representative within one year of the date of that decision or the case will be considered closed and the discipline will stand as issued, unless the time limit is extended by mutual agreement.

MISCELLANEOUS

14. If a dispute arises concerning the timeliness of a notice or decision, the postmark on the envelope containing such document shall be deemed to be the date of such notice or decision.
15. Engineers attending an investigation as witnesses at the direction of the carrier will be compensated for all time lost and, in addition, will be reimbursed for actual, reasonable and necessary expenses incurred. When no time is lost, witnesses will be paid for actual time attending the investigation with a minimum of two hours, to be paid at the rate of the last service performed.
16. The engineer being investigated or the BLE representative may request the Carrier to direct a witness to attend an investigation, provided sufficient advance notice is given as well as a description of the testimony the witness would be expected to provide. If the Carrier declines to call the witness and the witness attends at the request of the engineer or BLE and provides relevant testimony which would not otherwise have been in the record, the carrier will compensate the witness as if it had directed the witness to attend.
17. If, by operation of this agreement or as the result of an arbitration decision, the Carrier is required to pay an engineer who has been disciplined for "time lost", the amount due shall be based on the average daily earnings of the engineer for the 12 month period (beginning with the first full month) prior to removal from service. The sum of

the claimant's earnings during such period shall be divided by 365 to arrive at the average daily earnings to be applied in determining the amount of lost wages, based on the number of days of discipline.

NOTE, Section 1: This agreement is not intended to modify or replace 'By-Pass' or "Companion" Agreements.

This agreement is not intended to modify or replace Carrier policies pertaining to discipline; except that to the extent this agreement may conflict with a Carrier policy, this agreement shall govern.

NOTE, Section 17: The twelve (12) month period utilized in determining the employee's average daily earnings will not include any month(s) in which the employee experienced unusually low earnings due to circumstances beyond his/her control, such as personal injury, documented major illness, of the employee or a family member, etc. It is not the intent of this NOTE, however, to exclude those months in which the employee lays off on his/her own accord. It is intended the twelve (12) month period utilized will reflect the engineer's normal work habits and history.

Example: An engineer was dismissed in October for an alleged rules violation.

Pursuant to an arbitration award, the engineer is reinstated and awarded time lost (back pay). Six months prior to his/her dismissal, said engineer was off-duty (medical leave) for two (2) months (March and April) due to a documented major illness, such as a heart attack.

Calculation of the employee's average daily earnings for the preceding twelve (12) months will commence with September and will incorporate the prior fourteen (14) months, including September (March and April are excluded due to the employee having no earnings in those months due to the medical condition).

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