

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42926  
Docket No. SG-43235  
18-3-NRAB-00003-150500**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc.

**STATEMENT OF CLAIM:**

“Claim of behalf of the General Committee of the Brotherhood that:

Claim on behalf of L. Jackson, for reinstatement to his former position with all seniority and benefits unimpaired, compensation for all time lost, including overtime, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 6, when it issued the harsh and excessive discipline of dismissal against the Claimant without providing a fair and impartial investigation and without meeting its burden of proving the charges in connection with an Investigation held on October 14, 2014. Carrier’s File No. 2014-178388. General Chairman’s File No. L. Jackson. BRS File Case No. 15281-CSX(N).”

**FINDINGS:**

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

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 June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

By notice dated October 3, 2014, the Claimant was directed to attend a formal hearing on charges that the Claimant had violated Carrier rules when, during the period between April 5 and August 5, 2013, the Claimant allegedly had operated a Carrier vehicle with, first, a suspended license and then with a restricted license that did not permit him to operate a restricted vehicle; and when, on September 10, 2014, the Claimant allegedly had reported that he had a proper CDL, when he did not. The Investigation was conducted, after a postponement, on October 14, 2014. By letter dated October 29, 2014, the Claimant was notified that as a result of the hearing, he had been found guilty as charged and was being dismissed from the Carrier's service. The Organization thereafter filed a claim on the Claimant's behalf, challenging the Carrier's decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was afforded a fair and impartial Investigation, because substantial evidence establishes that the Claimant is guilty as charged, and because the discipline imposed was warranted and fully justified. The Organization contends that the instant claim should be sustained in its entirety because the Carrier committed a fatal procedural error when it pre-determined the Claimant's guilt, because the Carrier failed to afford the Claimant a fair and impartial Investigation, because the Carrier has failed to meet its burden of proving that the Claimant was guilty as charged, because the Carrier restricted relevant evidence from being entered into the record that would have exonerated the Claimant, and because the discipline imposed was harsh and excessive.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit. The record reveals that the Claimant was guaranteed all of his due process rights throughout the proceeding.

The Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Carrier Rules 100.1, 104.2, 108.1, as well as CSX Safety Rule GS-1 and CSX Code of Ethics, when he operated Carrier vehicles

without the appropriate license. The record reveals that the Claimant had a suspended license with no driving privileges whatsoever and was operating Carrier vehicles.

Once the Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant was dismissed from the Carrier for the above rule violations. In addition, the Claimant was dishonest with the Carrier. Given the seriousness of this offense, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant's employment. Therefore, this claim must be denied.

**AWARD**

Claim denied.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 14th day of February 2018.