

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42958
Docket No. SG-43462
18-3-NRAB-00003-160123**

The Third Division consisted of the regular members and in addition Referee Kathryn A. VanDagens when award was rendered.

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

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation (formerly Baltimore & Ohio):

Claim on behalf of G.H. Jones, for payment for all time and benefits lost and any reference to this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 50–Discipline–Initial Hearing, when it issued the harsh and excessive discipline of a ten (10) calendar day actual suspension to the Claimant without providing him a fair and impartial Investigation, and without meeting its burden of proving the charges in connection with an Investigation held on November 12, 2014. Carrier’s File No. GHJ-INSV. General Chairman’s File No. 2014-181068. BRS File Case No. 15309- B&O.”

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.

The Claimant is a Signal Foreman in Carrier's Signal Department, having entered the Carrier's service on September 23, 1993. The Claimant was served with a Notice of Investigation on September 2, 2014, regarding the following charge:

"The purpose of this formal Investigation is to determine the facts and place your responsibility, if any, in connection with information received August 15, 2014, that you failed to complete and enter the Construction Notes for July 9, July 10, and July 28, 2014 into RAILDOCS on time.

In connection with the above incident, you are charged with failure to properly perform the responsibilities of your position, failing to submit required reports on time, willful neglect of your duties, and possible violations of, but not limited to, CSXT Operating Rules 100.1 and 104.3."

After an Investigation, the Claimant was found guilty of violating CSXT Operating Rules 100.1 and 104.3, and the Carrier imposed a ten calendar day actual suspension.

The Carrier contends that the Claimant was advised on several occasions of the importance of inputting his construction notes into RAILDOCS in a timely manner and was provided the resources to do so. The Carrier contends that, despite this, the Claimant failed to update RAILDOCS on July 9, 10, and 28, 2014. The Carrier contends that as the Foreman for the gang, it is the Claimant's responsibility to ensure that the work is completed. The Carrier contends that although the Claimant was reminded of and counseled on the importance of doing this work, it still had not been completed as of August 15, 2014. The Carrier contends that the Claimant has admitted his misconduct, so the penalty was fully justified.

The Organization contends that the Claimant was on an approved vacation on July 9 and 10, 2014, and his duties, including inputting construction notes into RAILDOCS should have been performed by the employee filling his vacancy. The Organization further contends that the lead man never informed the Claimant that the construction notes had not been submitted in his absence and that once he learned

of it, he completed and submitted them. The Organization contends that the Claimant was experiencing problems with his laptop computer on July 28, and was given a new computer. The Claimant believed that he had submitted the July 28 construction notes, and once he learned they were missing, he corrected the oversight. The Organization contends that all other construction notes were inputted in a timely manner.

The record shows that the Claimant was on vacation on July 9 and 10, and that he was unaware when he returned to work that the construction notes had not been inputted for those days in his absence. When the omission was later discovered, and the Claimant was made aware of it, he promptly entered the missing notes into the system. While the Claimant believed that a computer error caused the July 28 construction notes to go missing, there is no dispute that he did not enter them into the system until August 15, when the omissions were brought to his attention.

The Board finds that there is sufficient evidence that the Claimant is guilty of a violation of CSXT Operating Rules 100.2 and 104.3 and has determined that the Carrier has established a basis for discipline.

The Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit.

The remaining question is whether the penalty is appropriate under all the circumstances. The Claimant has been charged with failing to properly perform his duties only with respect to these three instances. While this Board does not minimize the seriousness of the Claimant's oversight, there is insufficient proof that the omissions were the result of the Claimant's willful neglect of duties. Accordingly, a ten-day actual suspension was excessive under all the circumstances of this case. The Claimant's discipline shall be reduced to a "Time Out" under the Carrier's IDPAP for Signal Employees. The claim is sustained in part, and denied in part.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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