

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43511
Docket No. MW-44340
19-3-NRAB-00003-170413**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**

PARTIES TO DISPUTE: (
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline [fifteen (15) day actual suspension and fifteen (15) day overhead suspension] imposed on Machine Operator J. Gray by letter dated August 22, 2016 for alleged violation of CSX Transportation Operating Rule 712.13 in connection with his alleged failure to operate a regulator with all required lights and that he proceeded through a turnout in a face point movement at approximately twenty (20) miles per hour on May 17, 2016 was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File GrayDA.116/2016-210175 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant J. Gray shall be fully exonerated of all charges and he shall be compensated for all wage loss suffered”**

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.

Although charged with two forms of misconduct as described in the Statement of Claim, Claimant was disciplined only for a violation of Rule 712.13, which pertained to whether the machine lights were on while it was in operation.

Our review of the record discloses unique circumstances that call for sustaining the claim as presented.

AWARD

Claim sustained.

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 1st day of March 2019.