

**BEFORE PUBLIC LAW BOARD NO. 6239**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**and**

**CSX TRANSPORTATION**

**Case No. 53**

**STATEMENT OF CLAIM:**

Appeal of the five-day actual suspension issued to Claimant T. M. Trupo as a result of investigation held on October 21, 2003, in regards to Claimant's failure to perform a proper monthly inspection in April of 2003.

**FINDINGS:**

The Claimant was employed by the Carrier as a track inspector at the time of this claim.

On June 3, 2003, the Carrier issued a letter informing the Claimant to appear for a formal investigation to determine the facts in connection with his failure to perform a proper monthly track inspection in April of 2003. The Carrier informed the Claimant that track defects were identified by Federal Railroad Administration Inspector R. Anderson on May 19 and 20, 2003. The Carrier charged the Claimant with violations of NORAC Operating Rules, General Rule B, and CSX Engineering MWI Manual, Subpart A – General 7.0.

After several postponements, the hearing took place on October 21, 2003. On October 30, 2003, the Carrier notified the Claimant that he had been found guilty of the charges brought forth against him and was being assessed discipline of five days' actual suspension.

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

This 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 failing to properly perform his track inspection at the end of April of 2003. The record reveals that the Claimant spent seven days inspecting the track in late April of 2003 and came up with only five defects on his track inspection report. Three weeks later, an FRA inspector inspected the same track and came up with one hundred thirty-six track defects. It is clear that the Claimant did not comply with the Carrier's requirements when performing his inspections in April of 2003.


Once this 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 in this case was issued a five-day suspension. Although there is no other discipline that appears in the record from this Claimant's lengthy time with the Carrier, this Board cannot find that the five-day suspension issued to the Claimant for this serious violation was unreasonable, arbitrary, or capricious. Therefore, this claim must be denied.

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**AWARD:**

The claim is denied.

  
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**PETER R. MEYERS**  
Neutral Member

**Dated:**

7/9/04