

PUBLIC LAW BOARD NO. 6468

PARTIES TO DISPUTE:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)

VS)

CSX TRANSPORTATION, INC.)

NMB CASE NO. 2

Award NO. 2

STATEMENT OF CLAIM:

S. E. Presley, ID 192³970, claim for all time lost while serving five (5) day suspension, and for attending investigation on January 31, 2001, and that benefits accruing value are credited with such time lost, and that references to this incident are purged from Claimant's personal file.

FINDINGS AND OPINION

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended. This Board has jurisdiction of the dispute here involved. The parties to this dispute were given due notice of hearing thereon.

Claimant was summoned to a formal investigation on a charge that he was observed unnecessarily delaying his train while deadheading from Mobile to Bay Minette. Following the investigation Carrier found claimant guilty of the charge and assessed a five day suspension from service as discipline.

This Board has had the opportunity to review the transcript of hearing together with all other documents submitted by the parties.

The testimony of Carrier's witness was that he observed the crew at McDonalds restaurant from 7:05 AM until departure at 7:33 AM. Also introduced as evidence was the log of the van driver who was transporting the crew from Mobile to Bay Minette, Alabama, and this log shows arrived at Daphne (McDonalds) at 7:05 AM with departure at 7:17 AM. No effort was made by the Hearing to clarify this difference in times, he merely elected to accept the testimony of Carrier's witness.

In addition to the unresolved time discrepancy, Carrier has not offered sufficient evidence to justify its finding that the stop in Daphne (McDonalds) resulted in a delay to claimant's train.

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Based on the record before us it is the opinion of this Board that Carrier has failed in its burden to prove claimant was guilty of the charge, therefore, the discipline administered must be removed from claimant's record.

AWARD

Claim sustained. Carrier is instructed to comply with this award within thirty days of the date hereof.

F. T. Lynch
F. T. Lynch, Neutral Chairman

Patricia A. Madden
Patricia A. Madden, Carrier Member

Paul T. Sorrow
Paul T. Sorrow, Employee Member

Award date August 5, 2000