

**PUBLIC LAW BOARD NO. 7104**

AWARD NO. 33

CASE NO. 33

PARTIES TO  
THE DISPUTE:

Brotherhood of Maintenance of Way Employees  
Division - IBT Rail Conference

vs.

CSX Transportation, Inc.

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. Any discipline imposed upon Track Inspector J. Rust for violation of CSX Operating Rules GR-2 in connection with failure to properly perform his duties as track inspector and insubordination is based on unproven charges, unjust, unwarranted and in violation of the Agreement (System File I56708507/MWD07-099).
2. As a consequence of Part 1 above, we request that Mr. Rust be granted remedy in accordance with Rule 25 of the Agreement."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

Claimant was assessed a 30-day disciplinary suspension for willful neglect of duties and insubordination for his conduct on May 9, 2007. At the time of the incident, claimant had more than 7 years of service.

Our review of the record does not reveal any procedural shortcomings of significance. Turning to the merits, we find the record does contain substantial evidence in support of the Carrier's determination that claimant was guilty as charged. According to the record, claimant effectively ignored three phone calls from his supervisor directing him to immediately cease what he was doing


to visually check out a report of buckled main line track at Milepost OMB 284.2 on the Morganfield Branch near Madisonville, Kentucky. During a fourth call by the Roadmaster to impress upon claimant the importance of carrying out his duties promptly, claimant responded that he did not need a lecture on the responsibilities of his job and then hung up on his supervisor. The location in question did, indeed, have track out of alignment by approximately 24 inches. The record does not depict any circumstances whatsoever that operate to mitigate claimant's uncooperative and insubordinate conduct.

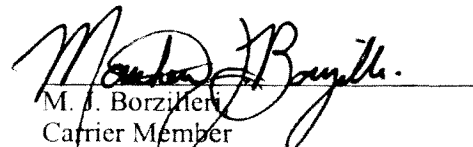
Given the foregoing discussion, there is no proper basis for disturbing the Carrier's action.

AWARD:

The Claim is denied.

  
Gerald E. Wallin, Esq., Chairman

  
T. W. Kreke,  
Organization Member

  
M. J. Borzilleri  
Carrier Member

Date: May 28, 2010