

PUBLIC LAW BOARD NO. 7529

Case No. 19
Award No. 19

Brotherhood of Maintenance of Way Employee Division
IBT Rail Conference

vs.

CSX Transportation, Inc.

Statement of Claim:

1. "The Carrier's discipline of a five (5) day actual suspension imposed upon employee J. Glaze for the alleged violation of CSXT General Operating Rule A, General Regulations Rule GR-3, CSX Safeway Rule GS-3 and CSX Code of Ethics, in connection with his alleged display of disruptive and inappropriate behavior to his manager and team mates during the morning job briefing in the vicinity of Mile Post DC 4.8 on August 6, 2012 was on the basis of unproven charges, arbitrary and in violation of the Agreement (System File D70154712/2012-133455).
2. "As a consequence of the Carrier's violation described in Part 1 above, Claimant J. Glaze shall receive the remedy prescribed in Rule 25, Section 4 of the Agreement."

Findings and Opinion:

The Carrier and Employee involved herein are Carrier and Employee as defined in the Railway Labor Act, as amended. This Board has jurisdiction over this matter.

Claimant J. B. Glaze (ID No. 653930), along with his team, was assigned to a job site in Chicago, Illinois commencing August 6, 2012, and to stay in a hotel the preceding evening. During the evening, Claimant's brother suffered bites from bed bugs. Claimant and his brother then moved to a different hotel. Other employees also wanted to change hotels, but were unsure about the bus pick up the following morning.

On the following morning Claimant contacted Gil Gough and asked whether the bus was going to pick up him and his brother. Gough responded that the bus would do so, but that it was not allowed to make several stops. It would stop at hotels on the way that were close to the job site.

Claimant was picked up by the bus. When it arrived at the job site, Claimant went directly to Tuberville and asked him whether or not the bus was supposed to pick them up. This conversation took place prior to the job briefing that was given that morning in front of over twenty (20) employees.

According to Tuberville, Claimant approached him and asked why he had told the bus driver not to pick him up at the motel where he was staying that morning. Tuberville responded that he had told the driver not to go all over Chicago, but denied instructing him to not pick up Claimant and his brother. Claimant called Tuberville a liar several times. Tuberville characterized Claimant as being "aggressive, loud and boisterous". He stated that Claimant was standing within an arm's reach to him and was violating his space.

Joseph Przyblowicz, Work Equipment Manager, S&T testified that prior to his conversation with Tuberville, Claimant told the team that the later was "not a man" and "a liar". When, prior to the morning job briefing, Tuberville joined the team, Claimant approached him, arms crossed and violated his personal space. Claimant raised an issue regarding Tuberville's instructions about the bus pick up and another unrelated issue which had been discussed with labor relations. Claimant repeatedly called Tuberville a liar, loud enough for all the team to hear.

Claimant testified that when he arrived at the job site, he went directly to Tuberville and asked him to clarify whether or not the bus had been instructed to pick him up. They also discussed a separate issue about which Tuberville stated he had called labor relations. Claimant said he also spoke to labor relations. He told Tuberville either they lied or you lied. Claimant denied repeatedly calling Tuberville a liar. Claimant also denied yelling at Tuberville, but acknowledged that he may have spoken in "a heightened voice".

The Organization introduced eleven (11) statements from employees who had observed the above described conversation. Most of the statements attest that Claimant was not loud or boisterous and that he was not cursing. Others characterized Claimant as being neither disrespectful nor rude. None of the statements discuss whether or not Claimant called Tuberville a liar.

Tuberville and Przyblowicz each testified that Claimant repeatedly called the former a liar. Claimant denied doing so repeatedly, but acknowledged that he did once during the involved conversation. The Carrier has established by substantial evidence that Claimant repeatedly called Tuberville a liar in front of over twenty (20) team members.

Carrier's Ethics Policy requires that employees treat others with respect and GR-3 requires that employees be cooperative. Even assuming Claimant refrained from use of profanity and yelling, repeatedly and publicly calling his supervisor a liar violates these standards. By being disrespectful, uncooperative, and disruptive prior to the start of the morning job briefing, Claimant violated Operating Rule A, GR-3, and the Carrier Code of Ethics.

Claimant was assessed a five (5) day actual suspension and a five (5) day overhead suspension for one (1) year. Under the circumstances of this case, this penalty is neither harsh, arbitrary nor excessive.

Award:

Claim denied.

February 28, 2013

Date

A handwritten signature in black ink, reading "Mitchell M. Kraus". The signature is written in a cursive style with a large, stylized "M" and a long, sweeping underline.

Mitchell M. Kraus
Referee