

BEFORE PUBLIC LAW BOARD NO. 6043

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION
IBT RAIL CONFERENCE
and
ILLINOIS CENTRAL RAILROAD COMPANY**

Case No. 211

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

1. The dismissal of Mr. C. Laird for alleged violation of USOR General Rule H for alleged falsification of track inspection records during July 2014 was arbitrary, capricious, excessive and in violation of the Agreement (System File C140902/IC-BMWED-2014-00162 ICE).
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Laird shall be granted the remedy in accordance with Rule 33(i) of the Agreement.”

FINDINGS:

By notice dated August 11, 2014, the Claimant was directed to attend a formal investigation on charges that the Claimant allegedly had violated Carrier Rules by allegedly falsifying track inspections and track inspection records during July 2014. The investigation was conducted, after a postponement, on August 18, 2014. By letter dated September 2, 2014, the Claimant was notified that he had been found guilty as charged and was being dismissed from the Carrier’s service. The Organization subsequently filed the instant claim on the Claimant’s behalf, challenging the Carrier’s decision to discipline the Claimant. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because substantial evidence in the record establishes that the Claimant is guilty as charged, because there are no mitigating circumstances that would warrant reducing the discipline

imposed, and because the discipline imposed was warranted and was not arbitrary, capricious, or an abuse of the Carrier's discretion. The Organization contends that the instant claim should be sustained in its entirety because the Carrier failed to meet its burden of proof, and because the discipline imposed was arbitrary and unwarranted.

The parties being unable to resolve their dispute, this matter came 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 falsifying track inspection records on the Hammond Subdivision in the summer of 2014. The record reveals that the Claimant had been the track inspector for the territory where a derailment occurred, and that his last inspection was dated July 27, 2014. His supervisor was able to review a security camera from a gas station directly across the street from where the derailment occurred and determined that the Claimant's hi-rail vehicle never crossed that portion of the track. Moreover, the Claimant had never been given track authority for that segment of track on July 27, 2014; and, therefore, the Claimant could not have possibly inspected it. The Claimant subsequently admitted that what was submitted in his regulatory reports regarding his activity on July 27 was not accurate. There was further evidence that the Claimant falsified his inspection reports on July 8, 9, and 17 that year. The Claimant admitted that he did not conduct full inspections on that subdivision, although he entered dates into the regulatory inspection records that said that he did.

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 terminated. Given the seriousness of the offense of which he was properly found guilty, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant's employment. Therefore, this claim must be denied.

AWARD:

The claim is denied.

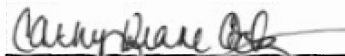


PETER R. MEYERS
Neutral Member



ORGANIZATION MEMBER

DATED: July 24, 2018



CARRIER MEMBER

DATED: July 24, 2018