

BEFORE PUBLIC LAW BOARD NO. 6043

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION
IBT RAIL CONFERENCE**

and

ILLINOIS CENTRAL RAILROAD COMPANY

Case No. 213

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

1. The dismissal of Mr. K. Brigham for alleged violation of USOR General Rules B and H for alleged failure to report payroll time for himself and his gang on various dates and speeding in a company vehicle on three (3) separate occasions was arbitrary, capricious, excessive and in violation of the Agreement (System File C 14 11 25/IC-BMWED-2015-00008 ICE).
2. As a consequence of the violation referred to in Part 1 above, Claimant K. Brigham shall be granted the remedy in accordance with Rule 33(i) of the Agreement.”

FINDINGS:

By notice dated November 18, 2014, the Claimant was directed to attend a formal investigation on charges that the Claimant allegedly had failed to report payroll time for himself and his gang on several occasions and was speeding in a Carrier vehicle on three separate occasions. The investigation was conducted, as scheduled, on November 21, 2014. By letter dated November 25, 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 violating USOR General Rules B and H when he was operating his vehicle in excess of the posted speed limit. In addition, the Claimant failed to enter his time worked as well as the time for two other individuals who worked on his gang into the payroll records. The Claimant failed to update the payroll records for the week November 3 through 9, 2014. He also failed to enter time records for himself and two others for whom he was responsible for the week November 10 through 14.

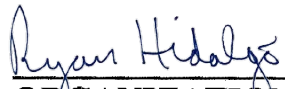
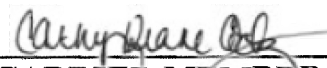
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case was guilty of very serious violations of speeding at three times the posted limit as well as failing to do his job in terms of entering the time for employees for himself and other employees. Given the seriousness of the offenses 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