

BEFORE PUBLIC LAW BOARD NO. 6239

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

CSX TRANSPORTATION

Case No. 29

STATEMENT OF CLAIM:

Appeal of the July 30, 2002, disqualification of Claimant J. L. Lewis from the position of Plugger Operator on the C-1 Team.

FINDINGS:

The Claimant was employed by the Carrier as a Plugger Operator at the time of this claim.

On July 30, 2002, the Carrier disqualified the Claimant from the position of Plugger Operator for failing to properly maintain the equipment that he operated. The Claimant thereafter requested that an investigation be conducted into his disqualification as Plugger Operator on the C-1 Team.

On September 13, 2002, the Carrier notified the Claimant to appear for a disqualification hearing. After one postponement, the hearing took place on October 3, 2002.

On October 21, 2002, the Carrier notified the Claimant that he was properly disqualified from his position and would not be allowed to operate any type of tie plugger machine. The Carrier informed the Claimant that the investigation revealed that the Claimant did not perform up to the level required of his position and that he had failed to properly maintain the equipment that he operated.

The parties being unable to resolve their dispute, this matter comes 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 Carrier properly disqualified the Claimant from his position of Plugger Operator on the C-1 Team on July 30, 2002. The record reveals that the Claimant had a very difficult time performing in his position and was not working up to standards. Moreover, on numerous occasions, the machinery was not kept clean and was often incapable of proper operation as a result of the Claimant's failure to properly maintain it. The record reveals that on July 29, 2002, the Claimant expressed to other employees that he would like to disqualify himself from that machine because it was too much trouble and there was a problem with maintenance. However, once the Claimant was disqualified, the Claimant requested an investigation of his disqualification claiming that he was being used as a scapegoat because of the failure of supervisors to perform their own jobs.

This Board cannot find any evidence to support the claim of the Claimant. The record reveals that on many days after May 5, 2002, there were reports of the Claimant's machine not being in working condition.

Finally, the record reveals that the Claimant wrote a note stating the following:

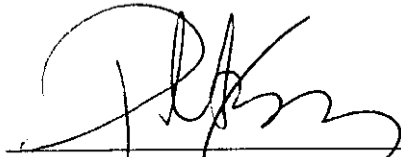
I have no problem with being disqualified. It like yoke being remove from my neck. But I want to be understood that this machine need support from all side and play the blame game help no one. Production is basic on the abilty of it leadership. Machine can and do make the job easier but without the proper support and understanding this problem will continue to exist. (sic)

Given the short term of employment of the Claimant, he started working for the Carrier in 1997, this Board cannot find that the Carrier acted in violation of the rules when it disqualified him from the position of Plugger Operator on the C-1 Team on July 30, 2002. Therefore, the claim will be denied.

PLB 6239
Awd 29

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member

Dated: 5/27/03