

AWARD NO. 230

Case No. 230

Organization File No. G31810313

Carrier File No. 2013-145954

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION,
) INTERNATIONAL BROTHERHOOD OF TEAMSTERS
TO)
)
DISPUTE) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier failed to compensate and provide mileage for Claimant C. Simpkins for attending his own investigation on April 18, 2013.
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Simpkins shall now be compensated "... (16) hours of straight time pay and (4) hours of time and one-half pay at the appropriate rates of pay in effect on the dates claimed, and the reimbursement of mileage at the prevailing rate of .565 for the (488) miles he drove his personal vehicle to and from the hearing that was held on April 18, 2013.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

On April 18, 2013 the Carrier conducted a disciplinary investigation at which Claimant was the charged employee. This investigation was held at the C&O Division headquarters in Huntington, West Virginia. Claimant, at the time, was working at Clifton Forge, Virginia, and lived in Barborus-

ville, West Virginia. It is evident he drove to Huntington the day prior to the hearing and was provided overnight lodging by the Carrier. Beginning on March 20, 2013, the date of the incident giving rise to the investigation, Claimant was held out of service by the Carrier pending the results of the hearing. Following the investigation, the Carrier issued Claimant an actual suspension.

The Organization now seeks pay for the time Claimant spent at the investigation and traveling to and from Huntington. It also seeks mileage expense for the 488 mile round trip. The Organization bases its claim on Rules 21 and 23. Rule 21 states:

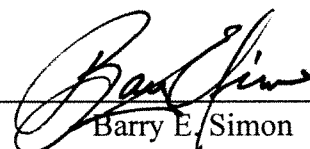
Rule 21 - Payment for Attending Investigations and Hearings

- (a) Except as mutually agreed between the carrier and Organization, investigations and hearings will be held on the charged employee's assigned working days.
- (b) When attending an investigation or hearing by direction of an officer of the Company, during his working hours, either regular or overtime, an employee shall not suffer any loss of compensation.
- (c) An employee attending an investigation or hearing that continues beyond the close of his tour of duty shall be compensated at the overtime rate for the time spent in attending such investigation or hearing.
- (d) Actual, pertinent witnesses who attend investigations or hearing will be paid in the same manner as applicable by this Rule.

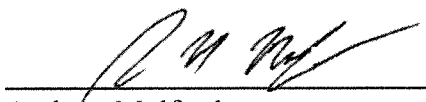
Rule 23 provides compensation for employees "waiting or traveling by direction of company." By Side Letter Number 20, dated November 11, 1999, it is clear that this Rule includes "those who travel to attend training classes." We consider Rule 23 to be a general rule, while Rule 21 is specific to disciplinary investigations. Under the basic arbitral principle that specific rules supersede general rules, we find that Rule 21 governs all compensation entitlements in connection with disciplinary investigations. There is no evidence the parties have ever recognized Rule 23 to apply to disciplinary investigations.

The title to Rule 21 does not state that attendance at an investigation, per se, entitles an employee to payment. It is necessary to read the Rule to determine exactly what compensation is paid. In Rule 21, the Carrier has promised that "When attending an investigation or hearing . . . an employee shall not suffer any loss of compensation." The Rule does not provide that an employee, in all cases, will be paid for attending an investigation. All it guarantees is that the employee will suffer no loss of income for attending the investigation. It is undisputed that Claimant was being withheld from service on the date of the investigation. Accordingly, he was entitled to no income that day. The Carrier was not obligated to compensate him for earnings to which he was not entitled. Furthermore, there is no language in Rule 21 entitling an employee to payment for travel time or expenses. To provide the payments sought by the Organization, we would be required to read more into Rule 21 than the parties agreed. It is beyond our authority to amend the Agreement.


AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



Andrew Mulford
Employee Member



Rob Miller
Carrier Member

Dated: 10/19/16
Arlington Heights, Illinois