

AWARD NO. 334
Case No. 334

Organization File No.
Carrier File No. 2017-224241

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM:

1. The Carrier's discipline [thirty (30) day actual suspension] of Mr. J. Auman, by letter dated July 12, 2017, for alleged violation of Rules 100.1, 104.13 and 2002.3 was arbitrary, unsupported, unwarranted and in violation of the Agreement (Carrier's File 2017-224241 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Auman shall '... be returned to service, be fully exonerated of all charges brought against him and to be made whole, including all lost pay, benefits and credits.' (Employee's Exhibit 'A-2')."

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.

The essential facts in this case are undisputed. On June 22, 2017, while he was conducting a job briefing at the Frontier Yard office, Roadmaster Rich Pavetto noticed that Claimant had his head bent forward and his body was slumped over. In addition, according to Pavetto, Claimant was

noticeably snoring. After sitting across from Claimant for about five minutes, Pavetto left a note in front of him, instructing him to come into his office when he woke up. When Claimant came in to talk to Pavetto, he admitted that he had been sleeping.

As a result of this incident, Claimant was directed to attend a formal investigation at which he was charged with sleeping. Following the investigation, Claimant was assessed a thirty-day suspension.

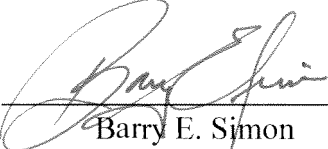
Claimant did not deny that he was sleeping. He acknowledged that he had not complied with Operating Rule 104.13, which prohibits sleeping on duty. He asserted, though, that he had taken medicine that had been prescribed for him and it had made him drowsy. He explained that he had been using one medication for several years, but had just begun taking an allergy medicine. He testified that he had contacted his physician after this incident and then stopped taking the allergy medication. He offered into evidence a document explaining the interaction of the two drugs, and how their use together might increase side effects such as drowsiness.

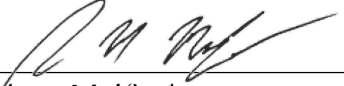
While Claimant has explained why he fell asleep during the job briefing, the Board does not find that this exonerates him. As he became drowsy, he should have taken some action to ensure that he would not fall asleep. We find that the Carrier had substantial evidence to support its charge against Claimant.


With respect to the level of discipline imposed, we note that this was Claimant's third serious offense in less than fifteen months. The first of these offenses also involved him sleeping on the job. Under the Carrier's Individual Development and Personal Accountability Policy (IDPAP), a third serious offense within a three-year period can result in discipline. The Carrier states it had, because

of the circumstances in this case, extended leniency to Claimant by assessing only a thirty-day suspension. It is the Board's conclusion that the discipline assessed was appropriate in this particular case, and we find not basis for modifying it.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


Andrew Mulford
Employee Member


Katrina Donovan
Carrier Member

Dated: 2/4/19
Arlington Heights, Illinois