

AWARD NO. 337
Case No. 337

Organization File No.
Carrier File No. 2017-225116

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 [fifty (50) day actual suspension] of Mr. D. Hopson, by letter dated July 18, 2017, in connection with allegations that he occupied the working limits of an employe in charge without permission was arbitrary, unsupported, unwarranted and in violation of the Agreement (Carrier's File 2017-225116 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant D. Hopson shall now be '... made whole for all lost wages (straight time, overtime and holiday pay), be credited all lost time for vacation, credited back the time he has lost toward his retirement, be reimbursed for the expenses due to his investigation (lodging receipt attached), have all charges expunged from his record, and have the Carrier to provide a written apology to Mr. Hopson and his family for causing them to go through a hardship.' (Employes' 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.

This case arises from the same facts and circumstances that were involved in Award No. 327 of this Board. In that case, we found that the Carrier had substantial evidence to support its charge

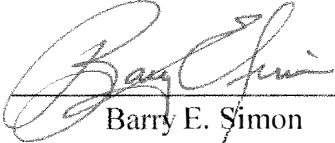
that the Claimant therein, Assistant Foreman C. Bryant, had occupied the 707 working limits of another employee-in-charge and had relocated the conditional stop boards of that employee-in-charge without permission. This arose when Assistant Foreman Bryant had placed his high rail vehicle on the tracks at a crossing that was within his track authority, but overlapped with that of the other employee. In our Award, we modified the discipline imposed by the Carrier by reinstating Assistant Foreman Bryant without pay for time lost. We expressly stated that our decision was based solely upon his length of service and the fact that his record contained no prior disciplinary actions. For his responsibility in this case, the Carrier issued the Claimant herein a suspension for time served from May 24 to July 18, 2017.

In the case now before us, Claimant was a Bridge Mechanic working with Assistant Foreman Bryant and was in the vehicle that was placed on the track within the other employee's track authority. It is the Organization's position that Claimant had no responsibility for this violation because he had no knowledge that they were within the 707 working limits of the other employee or that the boards had been moved by his Assistant Foreman.

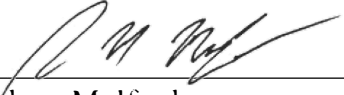
The Carrier imposed this discipline on the basis that Claimant either knew, or should have known, that the rules were being violated. It insists that Claimant had a responsibility to know that rules were being complied with and they were not occupying track without authority. The Carrier notes that all of the other team members who were in the truck at the time waived investigations and admitted to their violations. Although it contends it could have dismissed Claimant for this Major Offense, the Carrier explains it exercised leniency in his case because of his thirty-eight years of service.

We concur with the Carrier's position that Claimant had a responsibility to comply with the rules. Considering his length of service, he should have ensured that placing the truck on the rails did not encroach on another employee's track authority. He also should have been aware, if he was not, of the location of the stop board at the crossing and that Assistant Foreman Bryant had moved it prior to placing the vehicle on the track. We find, therefore, that the Carrier had substantial evidence to support its charge against him. We have no basis for modifying the discipline imposed.


AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



Andrew Mulford
Employee Member



Katrina Donovan
Carrier Member

Dated: 02/04/19
Arlington Heights, Illinois