

PUBLIC LAW BOARD NO. 7163

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 355
Case No. 355

-and-

CSX Transportation, Inc.

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

1. The Carrier’s discipline [ten (10) day actual suspension and one (1) year disqualification] of Mr. J. Hodgson, by letter dated August 28, 2017, in connection with allegations that he violated CSXT Operating Rules 100.1, 104.1 and 105.1 as well as the CSX Track Inspection Policy was arbitrary, unsupported, unwarranted and in violation of the Agreement. (Carrier File 2017-227357)
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Hodgson shall ‘...be fully exonerated of all charges brought against him and to be made whole, including all lost pay, benefits and credits.’

FINDINGS:

This Public Law Board No. 7163 finds that the parties are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated August 28, 2017, the Claimant, Track Inspector J.J. Hodgson was notified by the Carrier that he was assessed a ten-day actual suspension as follows:

Dear J.J. Hodgson:

This is in reference to a hearing that was held on Tuesday, August 8 2017, in the Conference Room of the Transportation Building at 1836 Broadway, Buffalo, New York. The notice of formal investigation, transcript and exhibits reviewed and discussed during the course of the investigation are included in this packet.

Based on the evidence presented during the course of hearing, substantial evidence was revealed demonstrating that you violated CSX Transportation Operating Rules 100.1, 104.1 and 105.1; as well as CSX Track Inspection Policy.

Upon my analysis of all factors related herein, the discipline to be assessed is ten (10) actual suspension beginning Tuesday, August 29, 2017 and ending Thursday, September 7, 2017, with Friday, September 8, 2017 being the first eligible day to return to work. Additionally, you are disqualified as a Track Inspector and all positions with similar skills or qualifications for a period of one (1) year beginning August 28, 2017 and ending August 27, 2018.

s/J.E. Brass
Division Engineer – Albany

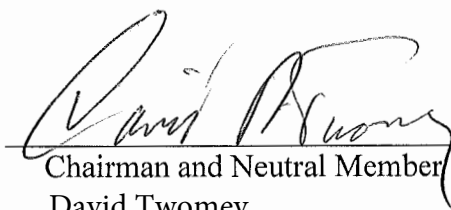
The Organization appealed the discipline and the matter has been properly progressed to this Board for adjudication.

No basis exists in the record before the Board to set aside the discipline on the procedural contentions of the Organization.

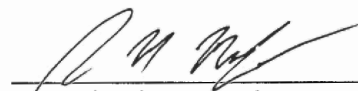
We find that substantial evidence of record supports the Carrier's determination that the Claimant was in violation of Operating Rules 100.1, 104.1, 105.1 and CSX Track Inspection Policy in failing to perform a proper inspection on June 20, 2017, as found by Roadmaster Mitchell Bennett in a follow-up inspection performed on June 21, 2017. Mr. Bennett's documents and photos support his testimony that the track condition in question warranted that the track be removed from service because the gauge, considering all factors, came to 58 inches. While the track location in question is a problem area, Mr. Bennett testified that the defect found could not have occurred overnight. We find that the Claimant was responsible for the rules violations, as charged. The discipline assessed is within the perimeter of Section VII, Paragraph A of the Track Inspector Agreement and appropriate in the record before this Board.

We must deny this claim.

Award
Claim denied.


Chairman and Neutral Member
David Twomey

Carrier Member
Katrina Donovan
Dated: _____


Organization Member
Andrew Mulford
Dated: 3/14/19