

## **PUBLIC LAW BOARD NO. 7163**

### **PARTIES TO THE DISPUTE:**

Brotherhood of Maintenance of Way Employees  
Division – IBT Rail Conference

Award No. 356  
Case No. 356

-and-

CSX Transportation, Inc.

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

1. The Carrier's discipline (time served suspension) of Mr. J. Gilliland, by letter dated November 7, 2017, in connection with allegations that he violated CSXT Operating Rules 104.10 and 104.2(a) was arbitrary, unsupported, unwarranted and in violation of the Agreement. (System File **D91705817/2017-229333 CSX**)
2. As a consequence of the violation referred to in Part 1 above, '...the Carrier must clear all mention of the matter from Claimant's personal record, and compensate him for all loss suffered. This loss includes, but is not limited to, any straight time, overtime, double-time or other Carrier provided compensation lost as a consequence of the discipline. It also includes healthcare, credit rating, investment, banking, mortgage/rent or other financial loss suffered as a consequence of the discipline.'

### **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 November 7, 2017 the Claimant, Foreman J.R. Gilliland was notified by the Carrier that he had been assessed the discipline of time served [some 54 days out of service] as follows:

Dear J.R. Gilliland:

This is in reference to the formal investigation that was held on Wednesday, October 18, 2017, in the Conference Room at the Nashville Division Office located at 624 Grassmere

Park Road, Suite 24, in Nashville, Tennessee. 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 104.10 and 104.2(a).

Upon my analysis of all factors related herein, the discipline to be assessed is time served beginning Tuesday, September 12, 2017 and ending Tuesday, November 7, 2017. Please contact your immediate Manager prior to marking up for duty.

s/J.L. Davis  
Division Engineer – Nashville

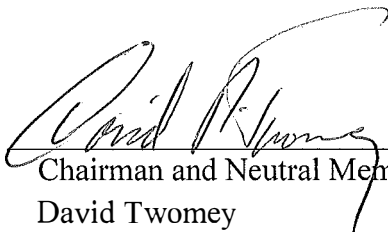
The Organization appealed the discipline and the matter has been properly progressed to this Board for adjudication.

No basis exists in the record before this Board to set aside the discipline on procedural grounds.

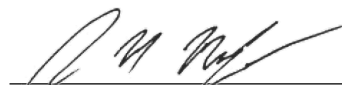
Substantial evidence of record, including the testimony of Roadmaster Blanton who testified that the Claimant was scheduled to working on Thursday, September 7, 2017 and was not there, and when he input payroll on Friday he put in that he worked an 8 hour shift (Tr. 7). Mr. Blanton submitted the Engineering Payroll Transmission Details document, showing the Claimant claimed 8 straight time hours for September 7, 2017. The Claimant, as foreman puts in payroll for the gang on this document. The Roadmaster caught the improper entry on the following Monday.

While the Claimant testified that the entry made was a mistake when he was rushing through his paperwork at the end of the workday on Friday running late to pick up his son at school, substantial evidence of record supports the Carrier's finding of responsibility in this case for violation of Rules 104.2 and 104.10. The discipline assessed is neither arbitrary, capricious or excessive. We must deny this claim.

Award  
Claim denied

  
Chairman and Neutral Member  
David Twomey

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Carrier Member  
Katrina Donovan  
Dated: \_\_\_\_\_

  
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Organization Member  
Andrew Mulford  
Dated: 3/14/19 \_\_\_\_\_