

**PUBLIC LAW BOARD NO. 7163**

**PARTIES TO THE DISPUTE:**

Brotherhood of Maintenance of Way Employees  
Division – IBT Rail Conference

Award No. 358  
Case No. 358

-and-

CSX Transportation, Inc.

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

1. The Carrier's discipline (dismissal) of Mr. R. Leizear, by letter dated September 25 2017, in connection with allegations that he violated the CSX Absenteeism Policy was arbitrary, unsupported, unwarranted and in violation of the Agreement. (System File D70185517/2017-227822 CSX)
2. As a consequence of the violation referred to in Part 1 above, Claimant R. Leizear shall be reinstated to service with seniority and all other rights and benefits unimpaired. His record shall be cleared of the charges leveled against him and he shall:
  - '...be made whole for all financial and benefit losses as a result of the violation. Any benefits lost, including vacation and health insurance benefits (including coverage under the railroad industry National Plan), shall be restored. Restitution for financial losses as a result of the violation shall include compensation for:
  - 1) Straight time pay for each regular work day lost and holiday pay for each holiday lost, to be paid at the rate of the position assigned to the claimant at the time of suspension from service (this amount is not reduced by any outside earnings obtained by the claimant while wrongfully suspended);
  - 2) Any general lump sum payment or retroactive general wage increase provided in any applicable agreement that became effective while the claimant was out of service;
  - 4) (sic) health, dental and vision care insurance premiums, deductibles and co-pays than he not have paid had (had) not been unjustly suspended.

All notations of the dismissal suspension should be removed from all carrier records.'

**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 September 25, 2017, the Claimant, Mr. R. Leizear, was notified that he had been assessed the discipline of immediate dismissal in all capacities from CSXT Transportation as follows:

Dear R.C. Leizear:

This is in reference to the formal investigation that was held on Thursday, September 7, 2017, at the Jacksonville Division Headquarters Office, 3019 Warrington Street, Jacksonville, Florida. 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 Absenteeism Policy.

Upon my analysis of all factors related herein, the discipline to be assessed is your immediate dismissal in all capacities from CSXT Transportation.

Please arrange to return any company materials in your possession to any Supervisor at the nearest CSX location.

s/K.L. Spivey  
Division Engineer – Jacksonville

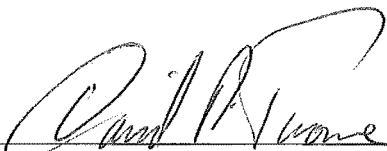
The Organization appealed the discipline and the matter has been properly progressed to this Board for adjudication.

We find that the record established that Charging Officer was not aware that the Claimant had progressed into a Step 4 investigation until July 31, 2017; and on that date, Roadmaster Cox sent the notice of a formal investigation to the Claimant, with a copy to the General Chairman. We find that no basis exist to set aside the discipline on procedural grounds.

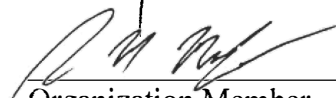
We have reviewed the evidence record in this case and we are compelled to find that substantial evidence of record supports the Carrier's determination that the Claimant was in

violation of the Carrier's APS Policy as charged. No basis exist in the record before this Board to overturn the decision of the Carrier to dismiss the Claimant in this case.

Award  
Claim denied.

  
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Chairman and Neutral Member  
David Twomey

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

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