

PUBLIC LAW BOARD NO. 7163

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employes
Division – IBT Rail Conference

Award No. 360
Case No. 360

-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. F. Maccarrone, by letter dated October 9, 2017, in connection with allegations that he violated CSX Transportation Operating Rules 100.1 and 104.3(e) was arbitrary, unsupported, unwarranted and in violation of the Agreement. (Carrier File 2017-228674 CSX)
2. As a consequence of the violation referred to in Part1 above, the Carrier shall overturn the discipline of Claimant F. Maccarrone, remove the matter from his disciplinary record and properly compensate him (i.e., straight time, overtime, double time, vacation, healthcare etc. per Rule 25."

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 Carrier letter dated October 9, 2017, the Claimant Mr. F.D. Maccarrone was notified by the Carrier that he had been assessed the discipline of time served [some 47 days out of service] as follows:

Dear F. D. Maccarrone:

This is in reference to the formal investigation that was held on Thursday, September 21, 2017, in the 2nd Floor Conference Room of the West End Crew Room 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.

Bases on the evidence presented during the course of hearing, substantial evidence was revealed demonstrating that you violated CSX Transportation Operating Rules 100.1 and 104.3(e).

Upon my analysis of all factors related herein, the discipline to be assessed is time served beginning Wednesday, August 23, 2017, and ending Monday, October 9, 2017. Please contact your immediate Manager prior to marking up for duty.

s/J.E. Brass
Division Engineer — Albany

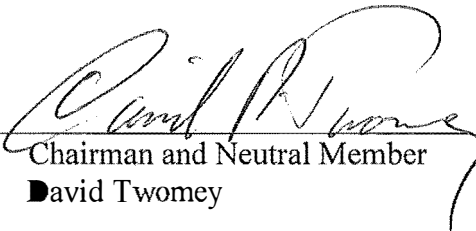
The Organization appealed the discipline and the matter has been properly progressed to this Board for adjudication.

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

Substantial evidence of record, supports the Carrier's finding of responsibility in the case, including photos introduced showing the derailment of the loaded tank car in Frontier yard caused by a wide gauge at the location from the previous day's work where the Claimant foreman replaced broken rails with new rails at the location, and the foreman failed in his responsibility to make sure that the tie plates should have been changed out. Placing the track back in service under such circumstances was a serious violation of Carrier's rules. The Claimant admitted a mistake was made. And the mistake could have led to catastrophic consequences.

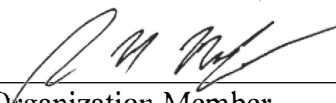
We find substantial evidence of record supports the Carrier's finding of responsibility for the rules violations in this case and that the discipline was neither arbitrary, capricious, nor excessive.

Award
Claim denied.



Chairman and Neutral Member
David Twomey

Carrier Member
Katrina Donovan
Dated: _____



Organization Member
Andrew Mulford
Dated: 3/14/19