

AWARD NO. 370
Case No. 370

Organization File No. D70185617
Carrier File No. 2017-227821

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: "Claim of the System Committee of the Brotherhood that:

1. The Carrier's discipline (dismissal) of Mr. C. Long, by letter dated September 25, 2017, in connection with allegations that he violated CSX Transportation Operating Rule 712.17 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File D70185617/2017-227821 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Long's dismissal shall be set aside, his record cleared, reinstated to service, provided all rights and benefits unimpaired and compensated for all loss."

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.

On August 4, 2017 Claimant was assigned as a Track Inspector on the P&A Subdivision and was performing mainline track inspections in a hi-rail vehicle. On that date, Roadmaster Jeffrey Chafin was conducting an operations test that consisted of placing a "STOP" banner across the track

to simulate an obstruction. It is undisputed that Claimant was unable to stop his vehicle before striking the banner. He was consequently directed to attend a formal investigation at which he was charged with failing to stop within one-half the range of vision and coming into contact with the obstruction. Following the investigation, Claimant was dismissed from service.

Our review of the record of the investigation shows that the Carrier had substantial evidence to support its charge against Claimant. Carrier's Operating Rule 712.17 states:

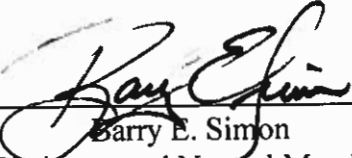
When operating on-track equipment, operate at a speed that permits stopping within one-half the range of vision.

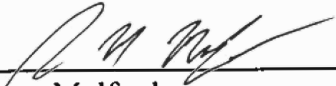
Although Claimant acknowledged that he did not stop his vehicle before striking the banner, he explained that he was coming out of a curve on wet rail due to rainy weather. The Carrier's rule, though, does not make exceptions for weather or track conditions. Claimant had a responsibility to adjust his speed to account for these factors.

We have reviewed Claimant's record and find that he had committed three Serious offenses within the three-year period leading up to this incident. One of those offenses was actually a Major offense, but is considered a Serious offense for the purpose of progressive discipline because the Carrier chose not to dismiss him. Under the circumstances, we cannot find that the discipline imposed in this case was either arbitrary or excessive. There is nothing in the record before us that would warrant any modification of the discipline.

In reaching this conclusion, the Board has given consideration to the various arguments advanced by the Organization, and finds them to be unpersuasive in this case.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


Andrew Mulford
Employee Member


Katrina Donovan
Carrier Member

Dated: 07/15/19
Arlington Heights, Illinois