

**NATIONAL MEDIATION BOARD**

**PUBLIC LAW BOARD NO. 7163**

**CASE NO. 393**

<b>PARTIES</b>	)	<b>BROTHERHOOD OF MAINTENANCE OF WAY</b>
	)	<b>EMPLOYEES DIVISION – IBT RAIL CONFERENCE</b>
	)	
<b>TO</b>	)	<b>VS.</b>
	)	
<b>DISPUTE</b>	)	<b>CSX TRANSPORTATION, INC.</b>

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) imposed upon Mr. J. Hedrick, by letter dated May 21, 2018, in connection with allegations that he was in violation of CSXT Crew Attendance Policy System (CAPS) and CSX Operating Rule 100.1 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File D31973918/18-89036 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Hedrick must have all mention of this matter removed from his personal record, be immediately returned to service with rights and benefits unimpaired and be compensated 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 because of the discipline.”

**FINDINGS:**

The Board, upon the whole record and all the evidence, finds that: the Carrier and the Employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934. This Board has jurisdiction over this dispute involved herein. Parties to said dispute were given due notice of hearing.

**STATEMENT OF FACTS:**

Claimant, J. Hedrick, has seniority of ten (10) years in the Track Sub-department within the Maintenance of Way Department. A formal investigation was held on or about February 23, 2018, charging the Claimant with exceeding the threshold for attendance under the auspices of CSXT Crew Attendance Policy System (CAPS) and CSX Operating Rule 100.1. For this violation, the Claimant was dismissed. Specifically, he was found to be absent on December 27-29, 2017

and February 6, 22, 23, 2018. He was found to be absent for reasons involving sickness, but without the submission of medical documentation as set forth in the attendance policy.

It is the position of the Carrier that the Claimant admitted that he had notice of the attendance policy and was absent on the days in question. Thus, he knew that the requirement of each medical doctor's submission should contain the following elements: date of the illness's onset, employee's ID number, work locations, and the employee's telephone number. Notwithstanding this knowledge, the Claimant claims to have submitted documentation without all the elements for the dates at issue. In addition, the record reflects that the Claimant had previously reached the Step 1-3 threshold prior to the current charges. Based on the foregoing, the Carrier asserts that the Claimant was afforded a fair and impartial hearing based upon substantial evidence, as required. Accordingly, the claimant must be dismissed.

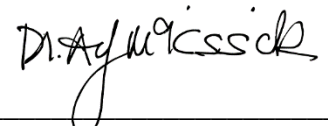
On the other hand, the Organization asserts that the Carrier failed to set forth specific regulations in the charge letter and it did not receive pre-hearing discovery. In addition, the Organization argues that the Carrier failed to charge within the proper time limits of thirty (30) days, as required by Rule 25, Section 1(d). Lastly, the Organization argues that the Claimant did not receive a fair hearing because the Organization was prevented from asking questions.

#### **OPINION OF THE BOARD:**

After a careful analysis of the investigation, the Board finds that the Carrier was correct in its determination that the Claimant's violation of the CAPS policy was egregious. Moreover, the Board finds that the Claimant's explanation that he was unable to locate the fax cover sheet to the Medical Department of the medical documentation to be untruthful. In response to the Organization's argument that it was prevented from asking questions at the hearing, the Board further finds that the hearing officer simply prevented the Organization from badgering the witness as well as asking duplicative questions. Based upon the foregoing, the Board finds that Claimant J. Hedrick's dismissal was completely justified based upon the record presented.

#### **AWARD:**

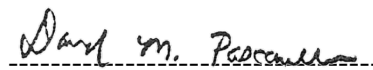
The claim is denied. Correspondingly, Claimant J. Hedrick is hereby terminated.



Dr. A. Y. McKissick, Referee



Carrier Member



Organization Member

**DATE:** February 27, 2020