

AWARD NO. 414
Case No. 414

Organization File No. D33906917
Carrier File No. 17-50147

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
) IBT RAIL CONFERENCE
TO)
)
DISPUTE) CSX TRANSPORTATION, INC.

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

1. The Carrier’s discipline [thirty (30) day actual suspension] of Mr. D. Cox, by letter dated December 6, 2017, in connection with allegations that he violated CSX Transportation Operating Rules 100.1 and 104.6 was arbitrary, capricious, unnecessary and excessive (System File D33906917/17-50147 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant D. Cox shall have the charge letter and all discipline related to it removed from his record and he shall be paid for all time lost.”

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.

Claimant, D.L. Cox, has been employed by the Carrier since December 1, 2014. On December 6, 2017, following an investigation, the Carrier assessed Claimant a 30-day actual suspension for failing, from August 28, 2017 through September 1, 2017, to appear at a jobsite and failing to inform his supervisors that he would not do so. The Carrier found that Claimant had violated CSX Transportation Operating Rules 100.1, which provides that employees must “comply

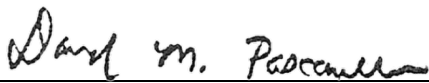
with the instructions of supervisors” and, if any uncertainty arises, “[c]ontact a supervisor for clarification,” and 104.6, which states that employees unable to work must notify the “proper authority” so their vacancy can be filled.

As the Carrier states, the record shows that Claimant failed to appear at the appropriate jobsite on the days at issue after he was awarded the welder helper position he had bid upon and did not notify the proper supervisors that he would not be there. However, our review of the record convinces us that there was confusion and miscommunication concerning when Claimant was required to report, and which led him to report to the jobsite approximately one week later than the Carrier anticipated. In these circumstances, we find that the Carrier has failed to meet its burden of proving, by substantial evidence, that Claimant violated Carrier Rules as alleged. We therefore sustain the instant claim.

AWARD: Claim sustained. The Carrier is directed to comply with this Award on or before thirty (30) days following the Award date below.



Jacalyn J. Zimmerman
Neutral Member



David M. Pascarella
Employee Member



John Nilon
Carrier Member

Dated: June 25, 2021