

AWARD NO. 415  
Case No. 415

Organization File No. D06906317  
Carrier File No. 2017-229352

**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 [fifteen (15) day actual suspension] of Mr. D. Richardson, by letter dated November 22, 2017, in connection with allegations that he violated CSX Transportation Operating Rules 100.1 and M 081A was arbitrary, capricious, unnecessary and excessive (System File D06906317/2017-229352 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant D. Richardson shall have the charge letter and all discipline related thereto removed from his record and 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. Richardson, has been employed by the Carrier since September 13, 2010. At all times relevant herein, Claimant was working as a B&B Mechanic on Team 6M78, which was tasked with changing a timber cap on an open-deck timber bridge near milepost XXB 179.5. On November 22, 2017, following an investigation, the Carrier assessed Claimant a 15-day actual suspension for failing, on September 20, 2017, to provide proper warning devices on this jobsite

after removal of the walkway grating. The Carrier found that Claimant had violated CSX Transportation Operating Rule 100.1, which provides that employees must know and comply with rules, instructions, and procedures that govern their duties, comply with the instructions of supervisors, and, in the event of uncertainty, take the safe course, and contact a supervisor for clarification. The Carrier also found that Claimant had violated M 081A, which deals with precautions for walkway repair.

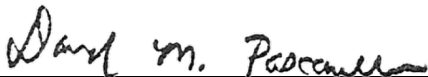
While the Carrier argues that Claimant was required to place safety cones, tape, or other warning devices on the bridge to indicate that the walkway had been removed, our review of the record indicates that in the circumstances of this case there were unresolved questions about possible instructions given to Claimant and whether he was provided with the necessary equipment to complete the task at issue. We therefore find that the Carrier has failed to meet its burden of proving his guilt by substantial evidence.

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



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Jacalyn J. Zimmerman  
Neutral Member



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David M. Pascarella  
Employee Member



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John Nilon  
Carrier Member

Dated: June 25, 2021