

AWARD NO. 416
Case No. 416

Organization File No. D06906417
Carrier File No. 2017-229348

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. W. Bell, 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 D06906417/2017-229348 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant W. Bell 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, W.R. Bell, has been employed by the Carrier since September 12, 2011. At all times relevant herein, Claimant was working as a Bridge 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 the jobsite at

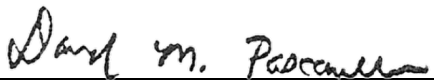
or near Mile Post XXB 179.5 after removal of the walkway grating. The Carrier found that Claimant had violated CSX Transportation Operating Rules 100.1 and M 081A.

The incident at issue here involves a bridge crew's failure to place warning devices at a jobsite after having removed part of the bridge walkway. Claimant was a part of that crew with employee D. Richardson, who also received a 15-day actual suspension. That claim is before this Board in Case No. 415. As noted in Case No. 415, although 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 the necessary equipment to complete the task at issue. We therefore find that the Carrier 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.



Jacalyn J. Zimmerman
Neutral Member



David M. Pascarella
Employee Member



John Nilon
Carrier Member

Dated: June 25, 2021