

**PUBLIC LAW BOARD NO. 7163**

**BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYES  
DIVISION - IBT RAIL CONFERENCE**

**vs.**

**Case No. 442  
Award No. 442  
Organization No. D27906318  
Carrier No. 18-37995**

**CSX TRANSPORTATION, INC.**

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**STATEMENT OF CLAIM**

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. K. Salas, by letter dated November 30, 2018, in connection with allegations that he violated CSXT Crew Attendance Policy System (CAPS) and CSXT Operating Rule 100.1 was without a fair and impartial hearing (System File D27906318/18-37995 CSX).
2. As a consequence of the violation referred to in Part 1 above, the Carrier ‘\*\*\* must clear all mention of the matter from Claimant’s personal record, immediately return Claimant to service with rights and benefits unimpaired and compensate him 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’ (Employees’ Exhibit ‘A-2’).”

**JURISDICTION**

The Board upon consideration of the entire record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; that the parties were given due notice of hearing.

**FINDINGS**

The Carrier hired K. A. Salas (“Claimant”), on June 1, 2015. The investigative hearing for this incident was held on June 1, 2018. Following the investigative hearing, the Carrier determined Claimant violated the CSXT Crew Attendance Point System Policy (CAPS), as well as CSX Operating Rule 100.1, he was dismissed from

service. The Organization appealed Claimant's dismissal on November 27, 2018. Thereafter, the dispute was handled according to the ordinary and customary on-property handling process, including the parties discussing the matter on January 10, 2019. The parties were ultimately unable to resolve the dispute and the matter is now before this Board for final adjudication.

In reaching its decision the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. In discipline cases, the Board sits as an appellate forum. We do not weigh the evidence *de novo*. As such, our function is not to substitute our judgment for that of the Carrier, nor to decide the matter in accord with what we might or might not have done had it been ours to determine, but to rule upon the question of whether there is substantial evidence to sustain a finding of guilty. If the question is decided in the affirmative, we are not warranted in disturbing the penalty unless we can say it appears from the record that the Carrier's actions were unjust, unreasonable or arbitrary, so as to constitute an abuse of the Carrier's discretion.

The Board finds substantial evidence in the record to uphold the Carrier's position regarding the charges against Claimant. Claimant reached the final step in the attendance policy. The underlying documentation for Step 3 was signed by Claimant. He was on notice that he had progressed through the attendance steps. Any challenges to prior attendance violations were not preserved. Further, Claimant did not appear at the investigation and there is no evidence of any extenuating circumstances necessitating that Carrier postpone the investigation. The Board finds no evidence to justify mitigating the penalty or any procedural violations that warrant disturbing the dismissal. Accordingly, the dismissal shall remain on Claimant's permanent record.

**AWARD**

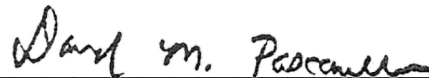
Claim denied.



Jeanne Charles  
Chairman and Neutral Member



John Nilon  
Carrier Member



David M. Pascarella  
Employee Member

Dated: 9/20/2021