

AWARD NO. 450  
Case No. 450

Organization File No. DRA900119  
Carrier File No. 19-19965

**PUBLIC LAW BOARD NO. 7163**

PARTIES     ) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION,  
              ) INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
TO            )  
              )  
DISPUTE     ) CSX TRANSPORTATION, INC.

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

1. The Carrier's discipline (dismissal) of Mr. D. Boan, by letter dated December 21, 2018, in connection with allegations that he violated CSX Transportation Operating Rules 100.1.2 and 104.(c) was arbitrary, capricious, unnecessary and excessive (System File DRA900119/19-19965 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 health-care, credit rating, investment, banking, mortgage/rent or other financial loss suffered because of the discipline.' (Employees' Exhibit 'A-2')."

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.

By notice dated November 9, 2018, Claimant was directed to attend a formal investigation. The Notice of Investigation stated that the purpose of the investigation was:


... to determine the facts and place your responsibility, if any, in connection with information received that on November 8, 2018, at approximately 0700 hours, while working Job No. 6JP8, at or near milepost A 542.2, you reported to work an hour and a half late, drove your personal vehicle to the jobsite without permission from a supervisor, left work 2 and a half hours before your designated quit time without permission from a supervisor and without contacting your supervisor for further instructions, paid yourself for time not worked, and all circumstances relating thereto.

Following the hearing, Claimant was dismissed from service.

The record of the investigation establishes that Claimant admitted that he did not have permission from a supervisor to take his personal vehicle to the job site on the day in question. There is, however, evidence that Claimant was at work during the hours of his assignment. We find that the Carrier did not meet its burden of proof in showing that he arrived late or left early.

It is the Board's conclusion, under the circumstances in this case, that the discipline imposed was excessive. We will direct that Claimant be reinstated to service with seniority rights unimpaired, but without compensation for time lost. Claimant is to understand that this is a last chance for him to demonstrate that he can perform his duties in full compliance with the Carrier's rules.

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

  
Barry E. Simon  
Chairman and Neutral Member

  
David M. Pascarella  
Employee Member

  
John Nilon  
Carrier Member

Dated: 8/9/21  
Arlington Heights, Illinois