

AWARD NO. 455
Case No. 455

Organization File No. D32444718
Carrier File No. 18-46999

PUBLIC LAW BOARD NO. 7163

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

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

1. The Carrier's discipline (dismissal) of Mr. W. Stewart, by letter dated December 19, 2018, in connection with allegations that he violated CSX Crew Attendance Policy System (CAPS) was arbitrary, capricious, unnecessary and excessive (System File D32444718/18-46999 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'). Even more specifically, restitution to Claimant shall include compensation for:
 - 1) Straight time for each regular workday lost and holiday pay for each holiday lost, to be paid in the rate of the position assigned to Mr. Stewart at the time of removal from service (this amount is not reduced by earnings from alternate employment obtained by Mr. Stewart while wrongfully dismissed);
 - 2) Overtime pay for lost overtime opportunities based on overtime for any position he could have held during the time the Claimant was suspended from service, or on overtime paid to any junior employee for work the Claimant could have per-

formed had the Claimant not been removed from service (this amount is not reduced by earnings from alternative employment obtained by Mr. Stewart while wrongfully dismissed);

- 3) Service time accrual reported to the Railroad Retirement Board (RRB) for all time the Claimant would have normally accrued days, months and years to include the monthly wages the Carrier would have normally reported to the RRB for retirement calculations if not wrongfully disciplined. Service time accrual shall also include vacation years and personal day accrual.

All notations of this suspension should be removed from all carrier records.' (Employees' Exhibit 'A-4')."

FINDINGS:

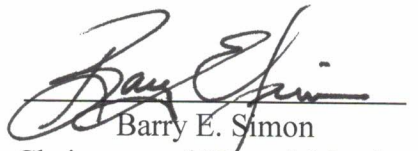
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

Following a formal investigation in connection with his reaching or exceeding the threshold for discipline under the Carrier's Engineering Attendance Point System Policy, Claimant was dismissed from service. The record of the investigation established that a Notice of Investigation, as well as two postponement notices, were sent to Claimant's address of record, but he was not in attendance. The record further shows that Claimant had progressed through the initial steps of the Attendance Point System Policy and had then accumulated ten additional points, placing him over the threshold of twenty points for the next level of discipline, which was dismissal.

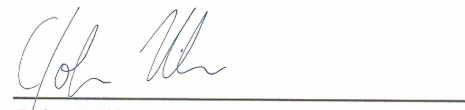
Based upon the record before us, the Board finds that Claimant was properly notified of the investigation and the Carrier was privileged to conduct it in his absence. Further, we find that the

Carrier had substantial evidence to support its charge against Claimant and that the discipline assessed was neither arbitrary nor excessive.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


David M. Pascarella
Employee Member


John Nilon
Carrier Member

Dated: 8/9/21
Arlington Heights, Illinois