

AWARD NO. 485

Case No. 485

Organization File No. DRA405119

Carrier File No. 18-00231

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM:

1. The discipline imposed (time served suspension) upon Mr. A. Mata for violation of CSX Transportation Rules 100.1 and 104.2(a) is unjust, unwarranted, excessive and the violations were inaccurate and not factually supported (System File DRA405119/18-00231 CSX).

2. As a consequence of the violation referred to in Part 1 above, we request that Mr. A. Mata:

... be made whole for all financial and benefit losses as a result of the violation. Restitution for financial losses as a result of the violation shall include compensation for:

1) Straight time for each regular work day lost and holiday pay for each holiday lost, to be paid in the rate of the position assigned to Mr. Mata at the time of removal from service (this amount is not reduced by earnings from alternate employment obtained by Mr. Mata while wrongfully suspended);

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 performed had the Claimant not been removed from service;

All notations of this suspension should be removed from all carrier records.' (Employees' Exhibit 'A-2')

FINDINGS:

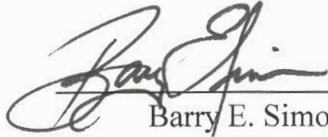
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved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

On June 15, 2019 Claimant was working on Indiana Harbor Belt (IHB) trackage, piloting the Brandt Truck. According to the Carrier, he worked outside of the Form B authority given to him by the IHB dispatcher. He was consequently removed from service and directed to attend a formal investigation in connection with this matter. In the Notice of Investigation, the Carrier additionally charged him with being dishonest and concealing the facts of the incident. Following the investigation, Claimant was issued a suspension for the time he was out of service, forty-six days.

We have reviewed the record of the investigation and conclude that the Carrier had found him in violation of CSX rules regarding track authority, although GCOR rules applied to his work inasmuch as he was working on IHB trackage at the time. In this regard, the discipline was defective. Furthermore, we do not find that the Carrier has met its burden of proof that Claimant was dishonest in his explanation of the events to Assistant Regional Engineer Timothy Jensen and Roadmaster Daniel Tuck. At most, the record suggests that he was confused about the incident when talking to the Carrier officials.

For these reasons, the Board finds that the discipline imposed cannot be supported by the record before us.

AWARD: Claim sustained. Carrier is directed to comply with this Award within 45 days.


Barry E. Simon
Chairman and Neutral Member


Ross Glorioso
Employee Member


John Nilon
Carrier Member

Dated: 1/12/2022
Arlington Heights, Illinois