

AWARD NO. 486
Case No. 486

Organization File No. DRA905419
Carrier File No. 19-28820

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 Carrier's disqualification of Mr. T. Mathis as a tamper machine operator, by letter dated July 1, 2019, in connection with allegations that he failed to demonstrate proper knowledge of running Tamper MT201504 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File DRA905419/19-28820 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant T. Mathis shall have the disqualification overturned and placed '*... back on the GRM 3000 position and paid any lost overtime due to the disqualification....*' (Emphasis in original) (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.

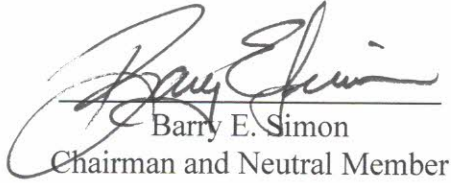
By notice dated July 1, 2019, Claimant was informed that he was disqualified as a Tamper Machine Operator. The notice cited his "failure to demonstrate proper knowledge of running Tamper MT201504." The notice further advised that a hearing was scheduled in connection with

the disqualification. The hearing was originally scheduled for July 25, 2019, but postponed by the Carrier until August 1, 2019. Following the hearing, Claimant was informed that his disqualification was upheld by the Carrier.


The record of the hearing indicates that Claimant was operating the tamper on June 29, 2019. While working in a right-hand curve, Claimant did not observe that the VERSE sign, which controls the track alignment, was bent. This resulted in the track on which he had worked not being within engineering standards. The following day, System Production Supervisor Matthew Slater observed where Claimant had worked in the area of a crossing. It was found that there were humps in the track on either side of the crossing, leaving the crossing in a belly. He later observed an improper runoff area and that Claimant had tamped four-tenths of a mile in four hours, which is below production standards. When questioned about these matters by Supervisor Slater, Claimant replied that he did not see anything wrong with the track. At the hearing, Claimant did not dispute the existence of these track conditions, but denied that he was responsible for them. His testimony further demonstrated a lack of knowledge concerning the identification and measurement of track defects, indicating a lack of competency for the job.

As this Board held in Award No. 371, the Organization, in a disqualification case, bears the burden of proof. Inasmuch as this Board is not capable of judging the qualifications of an employee such as this, deference is given to the Carrier's determination absent a finding that the Carrier acted arbitrarily or unreasonably. Upon our review of the record before us, we find that the Organization has not met this burden. We are compelled, therefore, to find that the Agreement was not violated when the Carrier disqualified Claimant from working as a Tamper Operator.

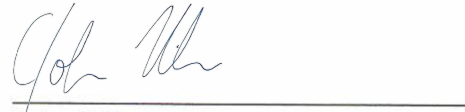
AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



Ross Glorioso
Employee Member



John Nilon
Carrier Member

Dated: 1/12/2022
Arlington Heights, Illinois