AWARD NO. 487 Case No. 487

Organization File No. DRA905019 Carrier File No. 19-18038

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 discipline (dismissal) imposed upon Mr. G. Fikes, by letter dated August 12, 2019, in connection with allegations that he was in violation of CSX Transportation Rules 103.7(c), 104.3(d)(e), 104.4(b) and 2007.3 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File DRA905019/19-18038 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.' (Employes' 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.

The material facts in this case are undisputed. On July 1, 2019, while driving a company vehicle, Claimant rear-ended a car that had slowed down for traffic. Claimant failed to slow or stop his vehicle in time to avoid the collision. The driver and passenger of the car he struck were taken to a medical facility by ambulance. Claimant was consequently directed to attend a formal investigation in connection with this matter. At the investigation, he admitted that he was at fault for the accident. He testified, "The outside party came to a sudden stop in front of me, and I feel that I did not see him in time, I didn't stop in time." He was subsequently dismissed from service effective August 12, 2019.

Although the Organization has argued that Claimant was denied a fair and impartial investigation, it has cited no specific violations of the Agreement provisions regarding the conduct of disciplinary investigations. We find, based upon the record before us, that the investigation was fair and impartial. Furthermore, with Claimant's admission of fault in connection with the accident, we find that the Carrier had substantial evidence to support its charge against him.

The remaining question before the Board is whether the discipline assessed was appropriate. According to the Carrier, this offense is considered a Major offense that would warrant dismissal without regard to any prior discipline. It notes, though, that he had two prior Serious offenses that were active on his record. A third Serious offense within a three-year period also warrants dismissal under the Carrier's Individual Development and Personal Accountability Policy (IDPAP). It is our conclusion that the discipline imposed in this case was consistent with the principle of progressive discipline and we find no basis for modifying it.

AWARD: C

Claim denied.

Barry E. Simon
Chairman and Neutral Member

Ross Glorioso

Employee Member

John Nilon

Carrier Member

Dated: 1/12/2022

Arlington Heights, Illinois