

AWARD NO. 489  
Case No. 489

Organization File No. DRA905819  
Carrier File No. 19-98769

**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. R. Oster, by letter dated August 30, 2019, in connection with allegations that he was in violation of CSX Transportation Rules 104.2(a), 104.3(d)(e), 104.7(d), 707.2(8), 707.8 and 707.13(1)(2) was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File DRA905819/19-98769 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 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.' (Employees' Exhibit 'A-2').

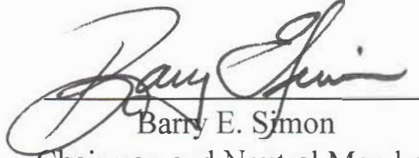
FINDINGS:

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.


The material facts in this case are undisputed. On July 16, 2019 Claimant was providing track protection for a contractor operating an excavator in a territory carrying both freight and passenger traffic. With about eight minutes left on his track authority, Claimant gave permission for the contractor to enter the track to get around a signal bungalow. While exiting the track, the contractor, without realizing it, had knocked the track out of line by approximately five inches. Claimant permitted the contractor to remove the south red board, and then authorized train movement through the territory without verifying that the contractor was in the clear and that the track was safe for train operations. Ten minutes later, a northbound train crew saw that the track was misaligned and put their freight train into emergency. Unable to stop in time, the train derailed eleven cars and one axle of the lead locomotive. Following an investigation in connection with this incident, Claimant was dismissed from service effective August 30, 2019.

With Claimant's admission of culpability in connection with this incident, the Board must find that the Carrier had substantial evidence to support its charge against him. We note, however, that Claimant had nineteen years of service at the time of this incident, with no other active discipline on his record. In fact, it is evident that he had no discipline in the eleven years prior. In light of his record of employment with the Carrier, the Board finds that the discipline imposed in this case was excessive. Without minimizing the seriousness of Claimant's offense, we will, therefore, direct that he be reinstated to service with seniority rights unimpaired, but without compensation for time lost. Upon his return to work, he should be expected to perform his duties in a safe and conscientious manner. Future violations of this nature may result in his permanent dismissal.

AWARD: Claim sustained in accordance with the above Findings. 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