

PUBLIC LAW BOARD NO. 7163

**BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES
DIVISION - IBT RAIL CONFERENCE**

vs.

**Case No. 490
Award No. 490
Organization No. D33900118
Carrier No. 18-90200**

CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. A. Gandy, by letter dated January 3, 2018, in connection with allegations that he violated CSX Transportation Rules 104.2 and 2007.7 was arbitrary, capricious, unnecessary and excessive (System File D33900118/18-90200 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.’ (Employees’ Exhibit ‘A-2’).”

JURISDICTION

The Board upon consideration of the entire record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; that the parties were given due notice of hearing.

FINDINGS

The Carrier hired A. S. Gandy (“Claimant”) on April 4, 2007. The Carrier alleged that on November 1, 2017, Claimant failed to be in a position to guide a backing movement of a CSX vehicle resulting in damage to CSX equipment. Additionally, it was alleged that Claimant was dishonest when questioned by a company official regarding the incident. The investigative hearing for this incident was held on December 14, 2017. On January 3, 2018, Claimant was found culpable of violating CSX Transportation Rules 104.2 and 2007.7 and

the Carrier dismissed him. The Organization appealed Claimant's dismissal on January 4, 2018. Thereafter, the dispute was handled according to the ordinary and customary on-property handling process, including the parties discussing the matter on February 9, 2018. The parties were ultimately unable to resolve the dispute and the matter now comes before this Board for final adjudication.

The applicable rules are as follows:

Rule 104.2(a), states:

Employee behavior must be respectful and courteous. Employees must not be any of the following: dishonest.

Rule 2007.7 states:

When backing a CSX company vehicle, a person positioned in a place of safety must be utilized, when available, to guide the backing movement.

In reaching its decision the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. The Board finds substantial evidence in the record to uphold the Carrier's position regarding the charges against Claimant. However, in consideration of the Claimant's lengthy employment history and unblemished disciplinary record at the time of the offense, the penalty is modified to a time-served suspension. The Claimant is reinstated with all his rights and benefits unimpaired. No back pay is awarded.

AWARD

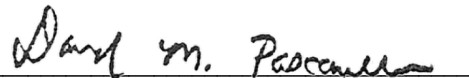
Claim sustained, in part. The Carrier is directed to comply with this Award on or before thirty (30) days following the Award date below.



Jeanne Charles
Chairman and Neutral Member



John Nilon
Carrier Member



David M. Pascarella
Employee Member

Dated: 9/20/2021