

AWARD NO. 495
Case No. 495

BMWE File: N/A
TFA: 336409
LCAT File: 19-05931

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
) IBT RAIL CONFERENCE
TO)
)
DISPUTE) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (formal reprimand) of Mr. I. Moore, by letter dated November 13, 2019, in connection with allegations that he violated CSXT Crew Attendance Policy System (CAPS), CSX Transportation Rules 100.1 and 104.6 was arbitrary, capricious, unnecessary and excessive (Carrier’s File 19-05931 CSX).
2. As a consequence of the violation referred to in Part 1 above, Mr. Moore must be “*** exonerated of all charges, striking this from his record, removing all point assessed under CAPS....’ (Employees’ Exhibit ‘A-3’).”

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.

Claimant, I.M. Moore, has been employed by the Carrier since November 29, 2010. At the relevant time, he was employed as a bridge operator. On November 29, 2019, following an investigation, the Carrier found Claimant had committed Rules violations in connection with

information received on September 25, 2019, that he had reached or exceeded the threshold for discipline handling under CSXT Crew Attendance Policy System (CAPS), on or about September 9, 2019. The Carrier determined that Claimant had violated CSX Transportation Rule(s) 100.1 and 104.6, and assessed him a Formal Reprimand.

The Carrier maintains a no-fault attendance Policy (CAPS), effective April 1, 2017, under which different types of absences are assigned different point values. Each time an employee accumulates 20 points, he or she is handled according to the Policy guidelines. After handling, 10 points are subtracted from the employee's point total. The Policy also provides employees attendance credits on a monthly basis, by subtracting points from the employee's total, for good attendance. The Policy provides that after each handling, the employee receives a letter containing information on how to access his or her attendance activity, as well as a phone number to call with any questions. There is also a medical review process in place which allows employees to submit medical documentation to request that an absence be excused for qualifying medical reasons.

The Policy includes four steps. For the first two steps, it provides for coaching and counseling letters. The parties' agreement provides that, although these steps are not formal discipline, the employee may avail himself of the grievance procedure to challenge the assessment of points at those steps. The third step subjects an employee to a formal reprimand, and the fourth step to dismissal.

Carrier witness Christa Patchen, Field Administration Specialist, explained the Policy in detail at the hearing, and also testified specifically as to how, prior to the incident at issue, Claimant had reached Steps 1 and 2 of the Policy, as well as how he then progressed to Step 3, leading to the discipline at issue.

Claimant acknowledged at the investigation that he had read the Policy and knew how to check the Carrier's online system to see where he was in the points system, and when and how he was assessed points. He was aware that it was a four-step process which could result in dismissal. He acknowledged that the manner in which Ms. Patchen described his points accumulation was accurate. He stated that he knew points could be assessed even if he provided medical documentation, depending on the circumstances, although he disagreed with the Carrier's assessment that the absence which put him at Step 3 did not warrant excusal for medical reasons.

We have carefully reviewed the record in its entirety. First, despite the Organization's numerous arguments, we find no procedural irregularity or anything else which denied Claimant his right to a fair and impartial investigation. On the merits, we find that the Carrier has met its burden of proving Claimant's guilt by substantial evidence. As the Carrier asserts, Claimant was familiar with his points record and never challenged it through the grievance procedure, as was his right, or sought clarification for it. Neither he nor the Organization disputed that he reached Step 3, and that is a valid basis for the assessment of discipline. The Formal Reprimand was issued in accordance with CAPS and was not an arbitrary, capricious or discriminatory exercise of the Carrier's discretion to determine disciplinary sanctions.

AWARD

Claim denied.

A stylized, cursive signature of Jacalyn J. Zimmerman in black ink, enclosed within a white rectangular box with a thin black border and a slight drop shadow.

Jacalyn J. Zimmerman
Neutral Member

A stylized, cursive signature of Ross Glorioso in black ink, positioned above a horizontal line.

Ross Glorioso
Organization Member

A stylized, cursive signature of John Nilon in blue ink, positioned above a horizontal line.

John Nilon
Carrier Member

Dated: 3/14/2023