

AWARD NO. 519
Case No. 519

Organization File No. DRA901420
Carrier File No. 20-03110

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHEROOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
TO) INTERNATIONAL BROTHERHOOD OF TEAMSTERS
)
)
DISPUTE) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

1. The Carrier's discipline (time served suspension) imposed upon Mr. S. Larry, by letter dated February 13, 2020, in connection with allegations that he was in violation of CSX Transportation Rule 100.1 was arbitrary, unsupported, unwarranted and in violation of the Agreement (System File DRA901420/20-03110 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, and compensate him for all loss suffered and restore all benefits. 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.

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.

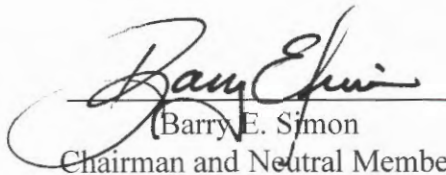
Following a formal investigation at which he was charged with unloading rail in the wrong location, Claimant was issued a suspension for the time he had been held out of service, or 91 days. At the investigation, it was established that Claimant was a Machine Operator on the system rail train, responsible for unloading rail in the vicinity of Vienna, Georgia on or about October 31, 2019. It was also established that rail had been placed in a curve where it should not have been placed. While not disputing the rail was placed in the curve, Claimant denied that he or his crew had unloaded the rail at that location, asserting that it was already on the ground when he got there. Claimant acknowledged that he had received instructions not to place rail in that curve, but insisted the location had not been marked with stakes or paint. This was disputed by Ernest McWhite, Manager of System Rail Train, who testified he personally inspected the site and saw the markings. McWhite also testified that this was the area in which Claimant was working, while other operators were working in a different location. Finally, the Rail-X data system, according to McWhite, showed that Claimant's ID number matched the entry for the placement of this particular rail. The improperly placed rail had to be picked up, resulting in an expense to the Carrier.


It is not the function of this Board to weigh the evidence presented at the disciplinary investigation conducted on the property. Nor do we assess the credibility of witnesses. Instead, we will accept the findings of the Hearing Officer unless we can determine that they were unreasonable. In this case, we can make no such finding. Accordingly, we find that the Carrier had substantial evidence to support its charge against Claimant.

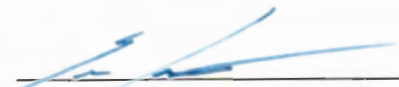
Based upon the seriousness of the offense, the Board finds that the discipline imposed was excessive. We will direct that Claimant's discipline be reduced to a thirty-day suspension, and that

he be compensated for wages and benefits lost for the time he was held out of service in excess of that time. This will be considered his second Serious Offense in the Carrier's discipline system. In reaching this conclusion, the Board has considered the various other arguments raised by the Organization and finds them to be unpersuasive in this case.

AWARD: Claim sustained in accordance with the above Findings. Carrier is directed to comply with this Award within forty-five days.


Barry E. Simon
Chairman and Neutral Member


Ross Glorioso
Employee Member


Eric Caruth
Carrier Member

Dated: 9/29/22
Arlington Heights, Illinois