

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline [one (1) calendar day actual suspension] of Mr. S. McCleary, by letter dated August 11, 2020, in connection with allegations that he violated CSX Transportation Rule 100.1 was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (Carrier’s File 20-45295 CSX).
2. As a consequence of the violation referred to in Part 1 above, the Organization requests that Claimant S. McCleary ‘*** be fully exonerated of all charges brought against him including all lost compensation, credits and benefits.’ (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 S.M. McCleary (“Claimant”) on May 14, 2018. The investigative hearing for the incident at issue was held on July 23, 2020. Subsequent to the investigation, by letter dated May 6, 2020, the Carrier found Claimant culpable of violating CSX Transportation Rule 100.1 resulting in a Formal Reprimand and one (1) suspension day without pay, dated August 11, 2020. Specifically, the Carrier determined that on June 26, 2020, at approximately 7:00 a.m., at or near Versailles, PA, Claimant

failed to follow instructions to report for duty on Friday, June 26, 2020, after being given notice that the team would be working that day.

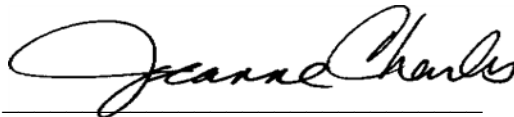
The Organization appealed Claimant's discipline by letter dated August 14, 2020. The appeal was denied by the Carrier on September 11, 2020. Thereafter, the dispute was handled according to the ordinary and customary on-property handling process. The parties were ultimately unable to resolve the dispute and the matter is now before this Board for final adjudication.

In reaching its decision, the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. In discipline cases, the Board sits as an appellate forum. We do not weigh the evidence de novo. As such, our function is not to substitute our judgment for that of the Carrier, nor to decide the matter in accord with what we might or might not have done had it been ours to determine, but to rule upon the question of whether there is substantial evidence to sustain the charge. If the question is decided in the affirmative, we are not warranted in disturbing the penalty unless we can say it appears from the record that the Carrier's actions were unjust, unreasonable or arbitrary, so as to constitute an abuse of the Carrier's discretion.

After a careful analysis of the investigation and the record before us, the Board finds that the Carrier failed to meet its burden of proof. Accordingly, the relief sought by the Organization is sustained. The formal reprimand with one (1) calendar day actual suspension shall not remain on Claimant's personal record. The Carrier is ordered to make the Award effective on or before 30 days following the date the Award is transmitted to the parties.

AWARD

Claim sustained.



Jeanne Charles
Chairman and Neutral Member



John Ingoldsby
Carrier Member



Ross Glorioso
Labor Member

Dated: December 19, 2023