

AWARD NO. 546
Case No. 546

Organization File No. DRA904920
Carrier File No. 20-56609

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM:

1. The Carrier's discipline (dismissal) of Mr. C. King, by letter dated July 13, 2020, in connection with allegations that he violated the CSXT Transportation Rules 103.7(c), 104.3(d)(e), 712.17 and 1002.2 on May 27, 2020, was arbitrary, capricious, unnecessary and excessive (System File DRA904920/20-56609 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,. 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 failing "to operate at speed that permits stopping one half the range of vision, resulting in defacing or destroying CSX property, endangering life or property, [and] fail[ing] to have the accessories properly stored while operating

moving OTE,” Claimant was dismissed from service. The record discloses that Claimant was operating a hi-rail vehicle in the vicinity of Bogart, Georgia on May 27, 2020 when his vehicle struck a Sperry truck that was stopped on the track. At the time of the collision, Claimant had ear buds in his ear. Claimant acknowledged he was aware of the location where the truck was stopped, but could not stop his vehicle before it collided with the truck. According to Claimant, this happened because the track was wet and he was going into a downhill grade.

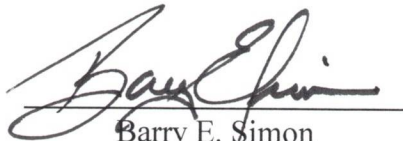
Carrier Rule 712.17 requires the operator of on-track equipment to operate at a speed that permits stopping within one-half the range of vision. The record establishes that Claimant could have seen the stopped Sperry truck from a distance of 1425 feet. In determining the stopping distance, Claimant acknowledged should have considered it might be greater if the track was wet. The Board is satisfied that this was a preventable accident, and that Claimant had violated Rule 712.17. We also find that Claimant was in violation of Rule 1002.2(1) which prohibits use of personal electronic devices while operating moving equipment. Claimant acknowledged that he was using the ear buds at the time.

In light of Claimant’s admission to the relevant facts in this case, we find that the Carrier had substantial evidence to support its charge against him. The Carrier was not obligated to provide any further witnesses once Claimant acknowledged the Rules violations.

With respect to the quantum of discipline imposed, we note that the Carrier’s discipline policy characterizes Rule 712.17 violations a major offenses which warrant dismissal. Numerous arbitral decisions on this property have recognized the Carrier’s right to take such action in similar cases. Accordingly, we find that the decision to dismiss Claimant was neither arbitrary nor exces-

sive. In reaching this conclusion, we have considered the various arguments advanced by the Organization and find them to be unpersuasive.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member



Ross Glorioso
Employee Member



John Ingoldsby
Carrier Member

Dated: March 18, 2024
Arlington Heights, Illinois