

AWARD NO. 559
Case No. 559

Organization File No. D603719
Carrier File No. 20-20787

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. J. Spalding, by letter dated September 14, 2020, in connection with allegations that he violated CSXT Engineering Attendance Point System Policy (APS), was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File D603719/20-20787 CSX).

2. As a consequence of the violation referred to in Part 1 above:

‘... the Carrier must clear all mention of the matter from Mr. Spalding's personal record 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 as a consequence 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 violating the Carrier's Attendance Policy, Claimant was dismissed from service. Under the Policy, employees receive points for absences, and progress from one step in the process to the next after accruing twenty points. The record shows that Claimant had signed a waiver when he reached the third step, and received a formal reprimand. At that time, ten points were deducted from Claimant's total, leaving him with ten points toward the next step. Thereafter, the Carrier asserts Claimant called in sick on June 26, June 27, and July 9, 2019. He did not provide medical documentation for these absences, and was assessed four points for each date, with a new total of twenty-two points. On September 1, 2019, he earned a good attendance credit and three points were deducted from his account. He received another four points for an absence on September 9, 2019 when he did not provide medical documentation. Finally, he received two more points on September 10, 2019 when he was sent home after reporting late. As of that date, therefore, he had a total of twenty-five points. At the investigation, Claimant confirmed that his attendance record was accurate and that he had exceeded the threshold for the fourth step of the Attendance Policy. That step, under the Policy, warrants dismissal.

In light of Claimant's admissions, we must find that the Carrier had substantial evidence to support its charge against Claimant. In his defense, Claimant testified that he had become addicted to pain medications and was unsuccessful in receiving treatment. Claimant stated he contacted the Carrier's Employee Assistance Program in October 2019 and went into rehab.

Because of the circumstances underlying Claimant's absences, and his apparently successful efforts at rehabilitation, it is the Board's opinion that the discipline imposed in this case was

excessive. Consequently, we will direct that Claimant be returned to service with seniority rights unimpaired, but without compensation for time lost. As a condition of his reinstatement, Claimant must successfully complete a medical examination as well as an evaluation by the Employee Assistance Program. Additionally, as a condition of his continued employment with the Carrier, he must comply with any requirements imposed by the Employee Assistance Program. This should be considered as a last chance for Claimant to demonstrate he can meet the Carrier's attendance requirements.

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



John Ingoldsby
Carrier Member

Dated: March 18, 2024
Arlington Heights, Illinois