

AWARD NO. 560
Case No. 560

Organization File No. DRA835419020
Carrier File No. 20-10357

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM:

1. The Carrier's discipline (dismissal) of Mr. C. Simpkins, by letter dated December 9, 2020, in connection with allegations that he violated CSX Transportation Rules 104.2(a)(b) and 108.1 on October 30, 2020, was arbitrary, capricious, unnecessary and excessive (System File DRA835419020/20-10357 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, immediately return Claimant to service with rights and benefits, unimpaired, 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 to include, but not limited to, retirement service accrual and pension payments, healthcare, credit rating, investment, banking, mortgage/rent or other financial loss suffered because of the improper 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.

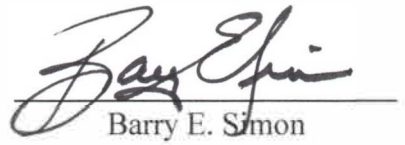
Following a formal investigation at which he was charged with being dishonest and insubordinate when he failed to notify management of a change in his driver's license being suspended, Claimant was dismissed from service effective December 9, 2020. The record reflects Claimant was assigned as a Machine Operator, a position the Carrier says requires the incumbent to hold a valid driver's license. According to the record before us, Claimant had signed documents certifying he had not had any traffic violations during the prior year. These documents were signed by Claimant on January 28, 2019 and October 19, 2020. The record further establishes that Claimant had his license suspended in 2018 and 2019 for DUI, and had a conviction for speeding in 2018. Based upon these facts, which Claimant had acknowledged, the Board finds that the Carrier had substantial evidence to support its charge against Claimant.

In Claimant's defense, the Organization denies that his position as a Machine Operator required him to have a valid driver's license, and avers he had never operated a Company vehicle during the times his license was suspended. Requiring employees to certify that they have a valid license that had not been suspended in the prior year is a legitimate demand by the Carrier. We note that Claimant had also performed duties as a Track Inspector during the period covered by his false certification. Whether or not he actually operated a Company vehicle during this time is immaterial. He was not charged with operating a vehicle without a proper and valid license. Rather, the discipline was based upon the fact that he made false statements to the Carrier. This dishonesty is characterized by the Carrier as a Major offense, warranting discharge.


We find that the Carrier had just cause to discipline Claimant. In reaching this conclusion, we have considered the various arguments advanced by the Organization and find them to be

unpersuasive for reasons that have been addressed in previous decisions of this Board. It is our conclusion, though, that the imposition of dismissal was excessive in this case. The record before us does not show him to have had any discipline in his ten years of service with the Carrier. Under the circumstances, we will direct that Claimant be reinstated to service with seniority rights unimpaired, but without compensation for time lost.

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 Gloriosio
Employee Member


John Ingoldsby
Carrier Member

Dated: March 18, 2024
Arlington Heights, Illinois