

PUBLIC LAW BOARD NO. 7163

CASE NO. 597
AWARD NO. 597

Brotherhood of Maintenance of Way Employees
Division - IBT Rail Conference

and

CSX Transportation, Inc.

Claimant: M.D. Parrott

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The discipline imposed (dismissal) upon Mr. M. Parrott, by letter dated October 5, 2021, in connection with allegations that he violated CSXT Crew Attendance Point System Policy (CAPS), on or about August 17, 2021 and all circumstances related thereto, was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File DRA 305421/21-62715 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 losses suffered. The losses include, but are not limited to, any straight time, overtime, double-time, or other Carrier provided compensation lost as consequence of the discipline. It also includes healthcare, credit rating, investment, banking, mortgage/rent, or other financial loss suffered because of the discipline.’ (Employees’ Exhibit ‘A-2’).”

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within meaning of the Railway Labor Act, as amended, this

Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and the parties were given due notice of the hearing held.

Claimant, M.D. Parrott, was hired on January 14, 2019, and established and maintained seniority in the Maintenance of Way Department. He challenges the Step 4 Dismissal issued to him on October 5, 2021, stemming from his absence without permission on August 17, 2021. The Organization argues that procedurally, Claimant did not receive a fair and impartial investigation in violation of Rule 25 because the Carrier's Labor Relations Specialist testified by telephone rather than in person. The Organization also argues that the Carrier failed to adhere to the point system in the Attendance Policy prior to disciplining Claimant by not crediting Claimant with a Good Attendance Credit in July 2021.

Turning first to the procedural argument, the record shows that the objection to the Specialist's telephonic testimony was raised at the end of the hearing. In response, the Hearing Officer indicated that telephonic testimony was not uncommon for the Specialist but offered to postpone or recall the Specialist to get more information, if needed. The Organization declined. Given these facts, we find no violation of Rule 25.

Turning to the merits of the case, the record shows that Claimant received a Step 1 Counseling Letter on May 11, 2020, a Step 2 Counseling Letter on June 24, 2021, and a Step 3 Formal Reprimand on October 5, 2021. The Current Status report shows that Claimant was "good attendance disqualified" for July 2021. The Carrier's Labor Relations Specialist testified that pursuant to APS, unauthorized absences, even if they do not generate points, disqualify an employee from the good attendance credit. As a result, Claimant was not eligible for a three-point good attendance credit for July 2021. His attendance points were calculated accurately.

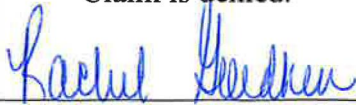
The record shows that while on a Step 3 Formal Reprimand, Claimant was absent without permission on August 17, 2021. Claimant received a bump notice on August 8, 2021. At hearing, Claimant stated that he believed he would work August 9-12, and then was bumped according to his foreman, so should not report to work on August 16. On August 15, Claimant called the hotel which did not have his name on list, leading Claimant to believe he was bumped off. On August 15 Claimant also texted his supervisor that he would not be in that week in order to get ready for a job interview.

However, Claimant's testimony is contradicted by his admissions that his supervisor said that no one would be released and Claimant never asked to be released. If he was no longer on the crew, he would not need to advise his supervisor that he was going to an interview or call the hotel to cancel the room. Claimant admits he did not have the supervisor's permission to be off work on August 17. Claimant also admits that he did not contact the Medical Department to report his Covid but contacted the Covid Department two days later, on August 19, 2021.

Accordingly, the Carrier has provided substantial evidence that Claimant was absent without permission on August 17, 2021, and received the Step 4 Dismissal consistent with APS policy.

AWARD:

Claim is denied.



Rachel Goedken
Neutral Referee

Dated: Feb 11 2025



Casey Summers
Employee Member



John Ingoldsby
Carrier Member