

PUBLIC LAW BOARD NO. 7163

CASE NO. 600
AWARD NO. 600

Brotherhood of Maintenance of Way Employes
Division - IBT Rail Conference

and

CSX Transportation, Inc.

Claimant: J. Jackson

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed and refused to allow Mr. J. Jackson to exercise his seniority in the Maintenance of Way Department after returning from a supervisory position beginning on January 5, 2022 and instead dismissed him without written proper notification of a hearing; affording him a fair and impartial hearing; nor, providing proper notification of his dismissal as required by Rule 25 (System File DRA301222/22-88813 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.’ (Employees’ Exhibit ‘A-1’).”
-

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, J. Jackson, established and held seniority within the Carrier's Maintenance of Way Department with a seniority date of April 15, 2002. On April 21, 2021, Claimant was promoted to CSX Supervisor, a non-Agreement covered management position where he remained until January 4, 2022, when he was terminated for violating the CSX Code of Ethics. The following day, Claimant attempted to exercise his seniority to a BMWED position, which the Carrier denied.

The Organization filed an appeal on Claimant's behalf, asserting that the Carrier refused to allow Claimant to exercise his seniority after returning from a supervisory position and instead dismissed him without notice of hearing, a fair and impartial hearing, or proper notification of his dismissal, in violation of Rule 25. In support of its position, the Organization cites two recent Board awards, PLB 7163 Award Nos. 548 and 556 (Simon, 2024), holding that seniority cannot be severed without Rule 25 due process.

The Carrier argues that at the time of termination, Claimant was an employee at will and the parties' Agreement is not applicable. The Carrier cites many awards where the Board dismissed or denied similar claims, reasoning that a non-bargaining unit employee who is dismissed no longer holds employment status with the Carrier and has no right to the due process provisions of a collective bargaining agreement. See e.g. PLB 7163 Award Nos. 545 and 541 (Charles, 2023), PLB 7163 Award No. 496 (Zimmerman, 2023), PLB 7584 Award No. 90 (VanDagens, 2021), PLB 7584 Award No. 99 (Phillips, 2021), NRAB First Division Award No. 28175 (Meyers, 2015), NRAB First Division Award No. 26725 (Clauss, 2009).

Rule 25, Section 1(a) provides, "Except as provided in Section 2 of this Rule, employees shall not be suspended nor dismissed from service without a fair and impartial hearing nor will

an unfavorable mark be placed upon their discipline record without notice thereof.” The “employees” covered by this language are represented by BMWED. This language did not apply to Claimant while he was a management employee. Similarly, the language did not apply to Claimant when he was dismissed from his management position, as he was no longer a Carrier employee. Claimant’s seniority rights - here, to a hearing and displacement - do not survive his dismissal as an at-will employee. For these reasons, the claim must be denied.

AWARD:

Claim is denied.



Rachel Goedken
Neutral Referee
Dated: Feb 11, 2025



Casey Summers
Employee Member



John Ingoldsby
Carrier Member