

PUBLIC LAW BOARD NO. 7163

CASE NO. 602
AWARD NO. 602

Brotherhood of Maintenance of Way Employees
Division - IBT Rail Conference

and

CSX Transportation, Inc.

Claimant: J.O. Roberts

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. J. Roberts, by letter dated January 21, 2022, in connection with allegations that he violated CSX Transportation Rules 701.2 (5)(9)(10), 700.3 (a)(b)(c) and 902.5 (a) was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File DRA 300122/22-41216 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’).”
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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, R.O. Roberts, established and maintained seniority the Carrier's Maintenance of Way Department. At the time of the incident leading to his dismissal, he was a machine operator. On November 13, 2021, Claimant was the EIC providing track protection for himself and a Brandt truck operator. He entered the Sibert Yard which spans two subdivisions, the M&M Subdivision on the north side and the NO&M Subdivision on the south. The breakpoint for the subdivisions is in the middle of the yard. The special instructions on the NO&M Timetable indicate that Sibert Yard has a sign stating that Sibert Yard is a remote controlled zone. The instructions state the sign is located "20 Ft north of the Kimberly Clark switch on the Drill Trk & at a point adjacent to 14B Switch, includes the Drill Trk & up to the yellow tie in Trks A1A, S1B & S01-S15." The M&M timetable does not contain similar instructions. Rather, the M&M track diagram designates the drill track with a dotted line, meaning it is uncontrolled track. Both timetables are dated November 1, 2017.

Claimant entered the M&M Subdivision from the north. Relying on the M&M Timetable, Claimant believed he was on non-controlled track and drove half range of vision. He did not see the RCO sign which, according to the NO&M Timetable, was located 20 feet north of the Kimberly Clark switch. That switch no longer exists and no switch has replaced it. Pictures presented at hearing show the RCO sign is faded and difficult to read.

Claimant was about 500-600 yards into Sibert Yard when the remote control foreman heard radio chatter in the remote controlled zone. He stopped the remote controlled train heading north toward Claimant, went to the booth to assess the situation, then said to Claimant, "You about got run over," and gave Claimant permission to occupy the tracks.

At hearing, the Carrier's evidence was presented by someone other than the charging party, who was no longer with the Carrier. The audio and video clips relied on by the Carrier were not entered into evidence or attached to the transcript.

Given these circumstances, combined with Claimant's twenty-year seniority and honesty during the investigation, Claimant will be reinstated without back pay.

AWARD:

Claim sustained in accordance with the above Findings. Carrier is directed to comply with this Award within forty-five days.



Rachel Goedken
Neutral Referee
Dated: Feb 11, 2025



Casey Summers
Employee Member



John Ingoldsby
Carrier Member