

**PUBLIC LAW BOARD NO. 7163
CASE NO. 613
AWARD NO. 613**

Brotherhood of Maintenance of Way Employees Division)		
of the International Brotherhood of Teamsters)		
)	
and)		Arbitration Decision
)	
CSX Transportation, Inc.)		and Award
)	
Carrier File: 22-57816)		
BMWE File: D 600122)		

I. STATEMENT OF THE CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. D. Bolser, by letter dated March 21, 2022, in connection with allegations that he violated CSX Transportation Rules 100.1, 104.2(a), 104.3(d), 105.1(2) and 104.4(a), was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File D600122/22-57816 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. Bolser’s personal record, immediately return Mr. Bolser 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. It also includes healthcare, credit rating, investment, banking, mortgage/rent or other financial loss suffered as a consequence of the discipline.’ (Employees’ Exhibit ‘A-2’).”

II. FACTS

The Claimant, D. Bolser, was working as a track inspector during the relevant time period and had ten years of seniority with the Carrier.

On December 29, 2021, the Claimant inspected the East Open Pocket (“EOP”) and filed a report. The report he input into the Carrier’s computer system indicated that he inspected the West Open Pocket (“WOP”), not the EOP. He did not inspect the WOP on that day.

On January 3, 2022, a derailment in WOP was investigated. The investigation included a review of the track inspection for the prior month. The inspection report indicated that the Claimant inspected the WOP on December 29, 2021. However, a review of the GPS of the track inspector's truck indicated that the truck driven by the Claimant never stopped at the WOP. Also, a review of video footage of the WOP on that date showed neither the truck passing the WOP nor anyone walking the WOP. Based upon this review, the Carrier determined that the Claimant never inspected the WOP and also falsified the track inspection report on December 29, 2021.

During the investigatory meeting, the Claimant stated that he inspected the track on December 29, 2021, but must have mistakenly input WOP instead of EOP into the inspection report. He testified that he had no intent to misrepresent the inspection report for that day, and could have “fat-fingered” the computer keys when entering the report.

III. POSITIONS OF THE PARTIES

The Carrier’s Position

The Carrier argues that the Claimant violated the stated rules when he was dishonest about inspecting the WOP on December 29, 2021, because he did not do the inspection on the WOP. The Claimant admitted to the violation, which was also confirmed by GPS and video data showing that the truck he was using was on the backside of the pit, not along the WOP.

The Carrier asserts that the Organization's objections to how the hearing was handled must be rejected. It asserts that the objections raised by the Organization were properly reviewed and ruled on during the hearing; that the Claimant and his representative were given a copy of all documents or evidence introduced into the record of the hearing; and given an opportunity to recess to review the documents.

Organization's Position

The Organization asserts that the Carrier's hearing officer in this case failed to provide the Claimant with due process during the investigatory hearing by badgering him during questioning.

On the merits, the Organization argues that the Claimant unintentionally entered incorrect data and that the Carrier relied entirely on GPS data and video footage, which allegedly showed that the Claimant's truck did not stop at the WOP on December 29, 2021. It highlights the Claimant's testimony that the inadvertent inspection entry resulted from the MEL track inspection reporting system used to input inspection information. It asserts that this system is known to contain errors and is difficult to navigate because of constant updates that change the System, and that the proximity of milepost designations for the EOP and WOP in the MEL system made accidental selection likely. It argues that his inaccurate inspection entry was a "fat-fingered" mistake, in part caused by the MEL system's design flaws.

While the Claimant admitted that the evidence confirmed that he did not physically inspect the WOP, the record also established that the Claimant's data entry error was not intentional and did not amount to willful misconduct.

The Organization states that the Claimant had no motive and nothing to gain, monetary or otherwise, from inputting his inspection as being performed on WOP instead of EOP. It asserts that the record does not support the allegation that the Claimant was dishonest or engaged in

willful neglect. It argues that the Claimant's mistakes, confusion, or accidents do not establish dishonesty.

IV. DECISION

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

Based upon the totality of the record, the Board finds that the Claimant did not inspect the WOP, however, the record does not support a finding of intent to being dishonest. The Board concludes that the Claimant must be reinstated and that the penalty shall be reduced to a 30-day suspension

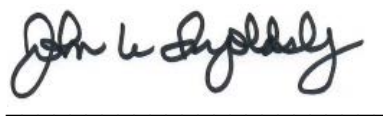
V. AWARD

The claim is granted, in part.

1. The Claimant shall be reinstated with back pay, benefits, and seniority, pursuant to the practice on the property.
2. The penalty shall be reduced to a 30-day suspension.
3. The Carrier is ordered to make the Award effective on or before 45 days following the date the Award is transmitted to the parties.



Casey Summers
Organization Member



John Ingoldsby
Carrier Member



Sheila Mayberry, Chair and Neutral Member

November 3, 2025