

PUBLIC LAW BOARD NO. 7163

CASE NO. 617
AWARD NO. 617

Brotherhood of Maintenance of Way Employees
Division - IBT Rail Conference

and

CSX Transportation, Inc.

Claimant: S. Morris

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. S. Morris, by letter dated May 24, 2022, in connection with allegations that he violated CSX Rules 100.1, 104.2, 104.3 and CSX Code of Ethics was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File DRA109422/22-36205 CSX).
2. As a consequence of the violation referred to in Part 1 above, the Organization requests ‘***’ that the dismissal letter and all matters relative thereto be removed from Mr. Morris personal file, and be made whole for all losses, wages suffered including vacation and retirement, as a result of the Carrier’s actions.’ (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.

The Claimant established and maintained nearly fourteen years of seniority in the Carrier’s Maintenance of Way Department. At the time of this dispute, the Claimant was assigned and working as a Bridge Mechanic. This case involves whether the Claimant’s dismissal violated the parties’ Agreement.

The incident that led to the Claimant's dismissal occurred on March 10, 2022. On that date, the Claimant was alleged to have made disparaging remarks about employees in a restaurant and then later in a Company truck referred to them using racial slurs, including the N-word.

On April 11, 2022, the Claimant was provided notice that an investigation would be held "to develop the facts and place your responsibility, if any, in connection with information received April 5th, 2022, that on March 10th, 2022, at approximately 11:45 hours, at or near Pascagoula, MS., while at lunch with your team at a fast food establishment, you became upset at the customer service and began making disparaging remarks about the employees, the establishment and the neighborhood and ceased when asked by the Foreman. Later that day while in the company truck you started talking about the incident again and when referring to the employees of the establishment you chose to use a racial slur. During an investigation of the incident you provided a verbal statement about what took place and when asked to provide a written statement, you failed to include everything that was in your verbal statement. After multiple requests to complete a statement you refused and chose to conceal facts during the investigation, and all circumstances relating thereto."

Following a formal investigation into this matter held on May 4, 2022, the Carrier made several findings, including that on March 10, 2022, the Claimant was with his team ordering lunch at a restaurant when he made disparaging remarks about the employees and the surrounding neighborhood and the restaurant asked that he not return. Additionally, on the same date, the Claimant made racial slurs using the "N Word" while in a company vehicle. Based on these findings, the Company determined that the Claimant violated CSX Rules 100.1, 104.2, 104.3 and CSX Code of Ethics, and he was notified on May 24, 2022, that he was being dismissed from service.

In discipline cases, the Carrier has the burden to prove that there is substantial evidence that the Claimant engaged in the alleged misconduct. First Division Award 16785. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison v. NLRB*, 305 U.S. 197, 305 (1938). Based on a review of the record, there is substantial evidence that the Claimant made disparaging remarks about employees in a restaurant and used racial slurs in violation of the rules cited in his notification of dismissal.

Dismissal is the most severe disciplinary penalty, so it is appropriate for the Board to consider the employee's work record and any extenuating circumstances involved in this case. Although the nature of the Claimant's misconduct warranted dismissal, the context of the Claimant's misconduct mitigated its severity, including that he was not addressing specific individuals or employees of the Carrier in their presence. Under these circumstances and in consideration of the Claimant's seniority, he shall be reinstated and his dismissal shall be reduced to a suspension without back pay.

AWARD:

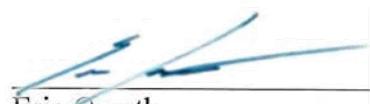
Claim sustained in accordance with the Findings. The Carrier is ordered to make the Award effective on or before 45 days following the date the Award is transmitted to the parties.



Michael G. Whelan
Neutral Referee
Dated: 12/1/25



Casey J. Summers
Employe Member



Eric Caruth
Carrier Member