

PUBLIC LAW BOARD NO. 7163

CASE NO. 618  
AWARD NO. 618

Brotherhood of Maintenance of Way Employees  
Division - IBT Rail Conference

and

CSX Transportation, Inc.

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Claimant: M. Bolick

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STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. M. Bolick, by letter dated November 15, 2022, in connection with allegations that he violated CSXT Operating Rules 712.17, 712.15, 712.4, 712.3, 701.3, 103.1, 104.3(e) and 104.2(a) was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File DRA705522/22-14229 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant M. Bolick shall now be fully exonerated of all charges brought against him and be made whole, including all benefits and credits.

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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.

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

The incident that led to the Claimant’s dismissal occurred on September 26, 2022. On that date, the Claimant was operating a hi-rail vehicle on the Monroe Subdivision near Carlisle, SC. As he approached a crossing, the Claimant’s vehicle was allegedly travelling at a speed of 35

MPH, in excess of the 30 MPH on-track maximum authorized speed for the section truck he was operating. The Claimant applied the vehicle's brakes but failed to stop short of the crossing and collided with the track supervisor's vehicle, which had been attempting to leave the rail at the crossing. At the time of impact, Claimant's vehicle was allegedly moving at a speed of 31 MPH, causing the track supervisor's truck to be shoved 20-30 feet down the track. Although the supervisor was believed to have not suffered any injury, the vehicle had extensive damage and had to be towed off the tracks.

On September 28, 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 that on September 26, 2022, at approximately 12:19 hours, at or near Carlisle, SC, when operating on-track equipment, you failed to operate at a speed that permits stopping within one-half the range of vision and exceeded 30 miles an hour and were not able to control your vehicle striking Track Supervisor Baxter's truck, and all circumstances relating thereto."

Following a formal investigation held on October 26, 2022, the Carrier determined that the Claimant failed to operate at a speed that permits stopping within one-half the range of vision and exceeded the maximum permitted speed of 30 MPH, where he was unable to control the vehicle, resulting in a collision with the track supervisor's vehicle, causing damage to the vehicle in violation of CSXT Operating Rules 712.17, 712.15, 712.4, 712.3, 701.3, 103.1, 104.3(e) and 104.2(a). For these reasons, the Claimant was notified on November 15, 2022, that he was being assessed Corrective Action of Dismissal from service.

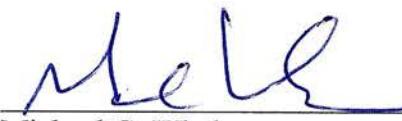
In discipline cases, the Carrier has the burden to prove that there is substantial evidence that the Claimant engaged in the alleged misconduct. First Division Award 16785. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison v. NLRB*, 305 U.S. 197, 305 (1938).

In this case, the Claimant admitted during the on-property investigation that he did not devote his full attention to operating the vehicle, as required, as he was speaking with the train dispatcher and not operating at, or below, the maximum permissible speed for the vehicle, which violated CSX Operating Rules. It is well-established that when an employee admits guilt, there is no need for further proof. See Public Law Board 7841, Award 1; Public Law Board 6006, Award 108; Third Division Award 40855; Third Division Award 28484; and Fourth Division Award 4779. Thus, the Carrier has met its burden to prove by substantial evidence that the Claimant violated the rules cited in the Carrier's notice of discipline.

The Organization contends that the Claimant's dismissal was arbitrary, unfair, and unduly harsh under the circumstances. Dismissal is the most severe disciplinary penalty, so it is appropriate for the Board to consider any extenuating circumstances involved in this case. Based on the seriousness of the Claimant's infractions, severe discipline, including dismissal, is warranted. However, there are circumstances in this case, including the Claimant's admission of guilt, that persuade the Board to reinstate him and reduce his dismissal 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