

PUBLIC LAW BOARD NO. 7163

Award No. 642

Case No. 642

**BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYEES DIVISION OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

and

CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. T. Graham, by letter dated October 17, 2023, in connection with allegations that he violated CSX Operating Rules 100.1, 103.7, 104.2, 104.3, 104.4, 2005.3 and the CSX Code of Ethics was on the basis of unproven charges, arbitrary, capricious, unnecessary and excessive (System File DRA 300923/23-89301 CSX).

2. As a consequence of the violation referred to in Part 1 above, the Organization requests that the Carrier:

‘... clear all mention of the matter from Mr. Graham’s personal record, immediately return Mr. Graham 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 and Railroad Retirement months as a consequence of the discipline.’ (Employee’s Exhibit “A-2”).”

FINDINGS

Public Law Board 7163, upon the whole record and all the evidence, finds that the parties to this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934. This Public Law Board has

jurisdiction over the dispute involved herein. Parties to this dispute were given due notice of hearing thereon.

Claimant was hired in June, 2022. He had no active discipline on his record.

On September 13, 2023, he was issued a Notice of Investigation “in connection with information received September 7, 2023, that on September 6, 2023, at approximately 14:00 hours, at or near Lithonia, Georgia, it was reported you had multiple quarrelsome interactions, where boisterous, profane and vulgar language was used with hotel staff, at a CSX provided CLC. Due to your behavior, you were asked to leave the hotel and not return. Upon your departure from the hotel, you decided to destroy, deface your hotel room with food, toiletries, and bodily fluids, and all circumstances related thereto.”

The Carrier argues that the Investigation established that Claimant had engaged in a number of quarrelsome phone and in-person conversations with hotel staff and management over a request for a particular room. Carrier Senior Manager Jarvis provided written statements from the hotel General Manager, the hotel front desk associate, the hotel Housekeeping Manager, and Claimant’s co-workers, which established he had been engaging in argumentative behavior with the hotel staff. In addition, a set of photographs was produced which indicated that Claimant had left his hotel room in an excessively dirty/trashed state, including scattered and smeared food items, items contaminated with suspected bodily fluids on the floors, and urine on the carpet. Dismissal is warranted.

The Organization argues that the Carrier has not met its burden of proof. The Carrier’s case essentially relies on unauthenticated, hearsay statements from hotel staff and co-workers. Claimant disputes the accuracy of the statements from the witnesses.

The Board has carefully reviewed all of the documents submitted by the parties during their on-property handling of this matter. We find that the Carrier has sustained its burden of proof. The Carrier provided numerous written statements from hotel management and staff, as well as Claimant’s co-workers, supporting the charge that Claimant was rude, aggressive, and demanding in his interactions with staff at the hotel. There is no basis for overturning the credibility determinations of the Hearing Officer

in this case on that charge. However, we find that the photographs that were submitted were not sufficiently authenticated. There is nothing in the hotel staff statements about when or where the photographs were taken. Particularly when there was a previous incident where this Claimant was alleged to have left his room in a dirty/trashed condition, it is not clear that these photographs documented the condition of the room when he left on September 5, the day at issue in the charges here. Further, the quality of many of the photos was such that it was difficult to ascertain what was being depicted.

We find that the Carrier has proven that Claimant was boisterous “when occupying facilities provided by CSX.” He failed to contact his supervisor when he was experiencing difficulty at the hotel. We note that the conduct he is charged with did not happen while on duty or while on CSX property. Rather it was at a facility provided by CSX. We find that under the circumstances, Claimant should be returned to work and given another opportunity to demonstrate that he can be a good CSX employee who does not bring disrepute to the Carrier. He should be reinstated, but without back pay. This discipline should make clear to Claimant that the CSX Operating Rules apply also on Carrier-provided facilities.

AWARD

Claim sustained in part.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to Claimant be made. The Carrier is ordered to make the Award effective on or before 30 days following the day the Award is transmitted to the parties.



Barbara C. Deinhardt
Neutral Member and Chairman



Eric Caruth
Carrier Member



Casey J. Summers
Employee Member

Dated: December 19, 2025