

PUBLIC LAW BOARD NO. 7357

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 56
Case No. 56
Carrier's File 8-01029

-and-

Delaware and Hudson Railroad Company d/b/a Canadian Pacific Railway

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. The discipline (dismissal) assessed Mr. B. Robarge, by letter dated December 6, 2014, for alleged violation of General Code of Operating rules (GCOR) 1.6 Conduct in connection with allegations of reporting false or dishonest information on November 6, 2014 was arbitrary, capricious, without just and sufficient cause and in violation of the Agreement.
2. As a consequence of the violation referred to in Part 1 above, we request that Claimant B. Robarge be returned to service immediately, that his record be cleared of this discipline, that he be compensated all losses suffered due to the Carrier's improper discipline and that he be afforded all other relief contained in the Organization's letter of claim dated January 14, 2015.

FINDINGS:

This Public Law Board 7357 finds that the parties are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated December 6, 2014, the Claimant, Mr. Broderick Robarge was notified by the Carrier that he was assessed the discipline of dismissal from service with Canadian Pacific Railway as follows:

Dear Sir:

As a result of the facts developed at the formal investigation hearing, held Monday, November 17th, 2014 you have been found failing to comply with GCOR Rule 1.6 Conduct

...

This is a result of your Time entry for the date of November 4th when you entered 10 hours straight time when you were absent from duty as a Trackman Truck Driver

You are hereby dismissed from service with Canadian Pacific Railway, effective immediately.

s/Andre Lafleur – Director of Track Renewal

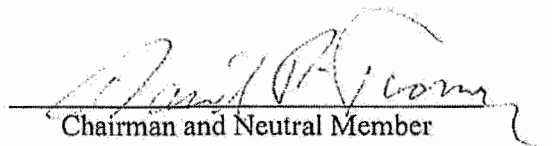
The Organization appealed the discipline and the matter has been progressed to this Board for adjudication.

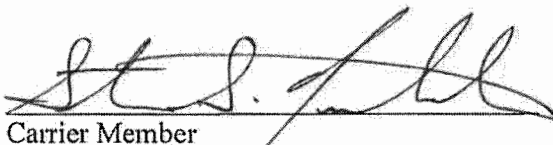
No basis exist in the record before this Board to set aside the discipline on procedural grounds.

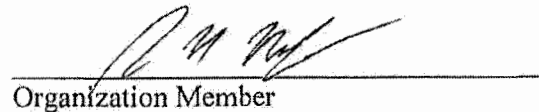
Employees fill out their time sheets and fax them to Timekeeper Silvio Evangelista in Toronto who inputs the time, and Mr. John Harvey, the Manager of Track Renewal, thereafter approves or disapproves the time sheet. The Claimant was absent on November 4, 2014. He was notified by Mr. Harvey that his time sheets for the entire work week ending on November 6 had not been received by Silvio. The Claimant testified that he telephoned Silvio on November 6 and put in his time for the work week over the phone as directed by Mr. Harvey (See Tr. 51-52). And, Mr. Harvey testified that the timekeeper thereafter told him that the Claimant had claimed time (pay) for November 4, after putting in the time over the phone on November 6. As a result, Mr. Harvey kept asking the Claimant to fax in the time sheets for the work week. And, the record shows that on the 10th, the following Monday, the Claimant faxed the time sheets in, but they were not signed. And, on November 11, Mr. Harvey asked the Claimant to come in and sign them which he did – signing for 10 hours pay for November 4, 2014, a day on which he did

not work. While the Claimant contends that it was a mistake and he did not do it dishonestly we are compelled to find that substantial evidence of record, including Mr. Harvey's testimony and the signed timesheet, supports the Carrier's determination that the Claimant was in violation of GCOR Rule 1.6 conduct when he entered 10 hours straight time for November 4, 2014 when he was in fact absent on that date. The Claimant had seven months of service with the Company at the time of this incident. We find that the Carrier's assessment of the discipline of dismissal was neither arbitrary, capricious nor excessive. We must deny this claim.

Award
Claim denied.


Chairman and Neutral Member


Carrier Member


Organization Member

Dated: 12/7/17