

PUBLIC LAW BOARD 7357

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 63
Case No. 63
Carrier's File 8-01048 DHR

-and-

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

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

1. The discipline [thirty (30) day actual suspension] assessed to Mr. R. Mattison, by letter dated February 1, 2016, for alleged violation of Engineering Safety Rule Book Section E-2 Vehicles Used For Company Business, General Code of Operating Rules (GCOR) 1.1.1 Maintaining a Safe Course, GCOR 1.6 Conduct and GCOR 1.19 Care of Property was arbitrary, capricious and without just or insufficient cause and constituted a violation of the Agreement.
2. As a consequence of the violation referred to in Part 1 above, we request that Claimant R. Mattison be made whole for all losses incurred as a result of the discipline.

FINDINGS:

This Public Law Board No. 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 February 1, 2015, the Claimant, Mr. Roger Mattison, Jr. was notified by the Carrier that he was assessed the discipline of a 30-day suspension to be served as follows:

Dear Sir:

As a result of the facts developed at the formal investigation hearing, held Thursday January 15th, 2015 you have been found failing to comply with engineering Safety Rules, in violation of Engineering Safety Rule Book Section E-2 Vehicles Used for Company Business – failure to operate a vehicle in a controlled and careful manner to prevent accident, or collisions with other vehicles and objects, and failure to conduct a

walk around of the vehicle to identify any obstacles, clearance restrictions, or adjacent vehicles that may interfere with executing a safe movement prior to backing up. Also failing to comply with General Code of Operating Rules, in violation of GCOR Section 1.1.1 Maintaining a Safe Course – failure to take the safe course, GCOR Section 1.6 Conduct – being dishonest, and GCOR Section 1.19 Care of Property – using railroad property for personal use.

Your record has been assessed with a 30-day suspension, to be served. This suspension will begin on February 2nd and will go to March 13th, 2015 with an expected return to work the date of March 16th, 2015.

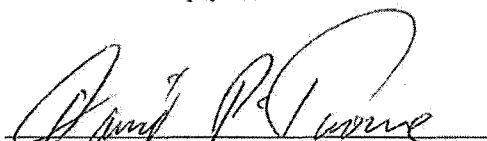
s/Daniel Adamson – Director Structures Maintenance East


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


The Carrier has met its burden of proof with substantial evidence of record, that Mr. Mattison failed to operate a vehicle in a controlled and careful manner to prevent accident, or collisions with other vehicles and objects, and failure to conduct a walk around of the vehicle that may interfere with executing a safe movement prior to backing up. This eight-year employee with a clear record offered to pay for the damage to this vehicle, costing from \$700 - \$800 to repair. The Carrier's findings of responsibility beyond the charge, identified in the January 12, 2015 hearing notice must be expunged from the Claimant's personal record. Considering the Claimant's full admission of responsibility to the January 12, 2015 charge, and the Claimant's positive personal employment record in the context of the facts of record before us, the thirty-day suspension shall be reduced to a 10-day actual suspension. Mr. Mattison shall accordingly be made whole for the time lost for the excessive suspension period. And the reference to the General Code of Operating Rules determinations GCOR Section 1.6 Conduct – being dishonest, and GCOR Section 1.19 Care of Property – using railroad for personal use, must be deleted from his record.

Award
As per Findings.

ORDER: The Carrier shall comply with this award within thirty (30) days.


Chairman and Neutral Member


Carrier Member


Organization Member

Dated: 12/7/17