

PUBLIC LAW BOARD NO. 7357

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 65
Case No. 65

-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 [ten (10) day record suspension] assessed to Mr. M. Keyes, by letter dated October 1, 2015, for alleged violation of General Code of Operating Rules (GCOR) 1.15 Duty – Reporting or Absence was arbitrary, capricious and without just or sufficient cause and constituted a violation of the Agreement (Carrier's File USA-BMWED_D&H-2015-00003 DHR).
2. As a consequence of the violation referred to in Part 1 above, Claimant M. Keyes' record shall be cleared of the matter and he 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 October 1, 2015, the Claimant, Mr. Michael Keyes was notified by the Carrier that he was assessed a 10 day Recorded suspension and required to serve 0 days, as follows:

Dear Mr. Keyes,

As a result of the facts developed at the formal investigation hearing, held on Monday September 26th, 13:00 in Oneonta NY you have been found to be in Violation of GCOR 1.15.

1.15 Duty – Reporting or Absence

Employees must report for duty at the designated time and place with the necessary equipment to perform their duties. They must spend their time on duty working only for the railroad. Employees must not leave their assignment, exchange duties, or allow others to fill their assignment without proper authority. Continued failure by employees to protect their employment will be cause for dismissal.

Your record has been accessed with a 10 day Recorded suspension and you are required to serve 0 Days this is a recorded suspension only.

October 1, 2015
s/Joffre Roy
Director Production East

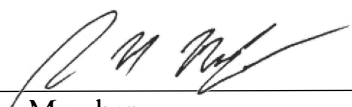
The Organization appealed this discipline and the matter has been progressed to this Board for adjudication.


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

Substantial evidence of record including Mr. Keyes' own testimony established that he failed to report for duty August 24, 25, 26 and 27, a full work week of four ten-hour days. As a result the tamper machine to which he was assigned was idled for the whole week resulting in lost productivity. Clearly Mr. Keyes was in violation of GCOR 1.15. Surely car problems, regardless of intermittent attempts to communicate such are not a shield against the consequences of the unexcused absences from work for four days. We find that the 10 day record suspension with 0 days to be served is appropriate corrective discipline in this case. We must deny this claim.

Award
Claim denied.


Chairman and Neutral Member


Employee Member


Carrier Member

Dated 02/12/19