

PUBLIC LAW BOARD NO. 7357

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division – IBT Rail Conference

Award No. 66
Case No. 66

-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 [thirty (30) day record suspension] assessed to Mr. M. Keyes, by letter dated November 23, 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-2016-00001 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 November 23, 2015, the Claimant, Mr. Michael Keyes, was notified by the Carrier that he was assessed a 30 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 Tuesday, November 3rd, 14:00 in Clifton Park, 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 30 day Recorded suspension and you are required to serve 0 Days this is a differed suspension only.

November 23rd, 2015

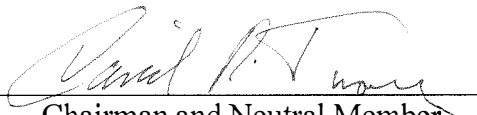
s/Don Murray
Director Production East

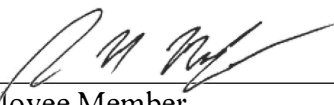
The Organization appealed this discipline and the matter has been progressed to this Board for adjudication.

The Organization does not deny that Mr. Keyes missed work on October 20, 21 and 22. However, it points out that Mr. Keyes did provide medical documentation for these absences and as a result he should have been excused from duty on the dates in question. We have reviewed the documentation of record and find that Mr. Keyes did in fact provide medical documentation for the absences in question. We shall sustain this claim. The 30 day record suspension must be deleted from the Claimant's record.

Award
Claim sustained.

ORDER: The Carrier is required to comply with this award within thirty days.


Chairman and Neutral Member


Employee Member


Carrier Member

Dated 02/12/19