

PARTIES
TO THE DISPUTE:

Brotherhood of Maintenance of Way Employes
Division of the International Brotherhood of Teamsters

VS.

CSX Transportation, Inc.
Carrier File: 2016-202217

Arbitrator: Sherwood Malamud

FINDINGS

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute.

Under date of February 29, 2016, Claimant B. Bumpus signed an Attachment A expedited discipline handling form. Through this document, Claimant Bumpus elected to forgo the traditional on – property discipline process and instead submit the matter directly to arbitration.

FACTS

The Carrier hired Claimant on July 12, 2010. As a Track Inspector, on December 21, 2015, Claimant inspected the lead track in the Cedar hill yard. On December 31, there was a derailment along the track Claimant had inspected. Roadmaster Brammel conducted the post accident investigation of the derailment, and he testified at the on property investigatory hearing on February 3, 2016.

On January 1, 2016, Brammel joined the investigation walk through by CSX management personnel from the Engineering and Transportation departments of the Carrier. They concluded that the derailment resulted from Claimant's failure to recognize wide gauge track. They found that the ballast was fouled; the ties rotted and the spikes did not prevent track movement that resulted in the rail cars rolling out at the PD and the cars falling in. The derailment destroyed a switch and track.

Claimant testified that the exact location of the derailment was covered in mud, when he inspected it. The mud prevented his observing the condition of the ties at PD. The poor drainage and the fouled ballast were noted by Brammel, as well.


In deciding to discipline Claimant with a 5-day actual suspension and 5-day overhead in place for one year from the imposition of the discipline, Division Engineer Posey found that Claimant failed to provide a "quality inspection." The track should have been taken out of service. It was under a 10mph order. The derailment occurred with the train operating at 7-8mph.

FINDINGS OF THE BOARD

The Board concludes the Carrier did not meet its burden of proof. It did not establish that Claimant poorly performed his track inspection. Mud concealed the tie conditions. The ballast was fouled. The poor drainage in the yard is known. Roadmaster Brammel rated the track condition as average after the derailment. The gauge of the track resulted from the rotten ties and fouled ballast that failed to secure the track. This condition was concealed by the mud. There is no evidence in this record that the Track Inspector must dig out and remove the mud where he is making his inspection. The Carrier failed to establish by substantial evidence that Claimant failed to make the inspection in accordance with Carrier's standards.

AWARD

Claim sustained.



Sherwood Malamud

Neutral Member

November 3, 2017