

**BEFORE PUBLIC LAW BOARD NO. 7529**

**BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYES DIVISION  
and  
CSX TRANSPORTATION, INC.**

**Case No. 146**

**STATEMENT OF CLAIM:**

It is my desire to appeal the discipline assessed to me and to obtain a decision as quickly as possible. Therefore, I hereby elect to have said discipline submitted to Public Law Board No. 7529. System File: D21003816/2017-215552

**FINDINGS:**

By notice dated October 24, 2016, Claimant R.A. Danks was directed to attend a formal investigation to determine whether the Claimant had violated Carrier rules in connection with a post to a social media website that allegedly displayed disrespectful, intimidating, and threatening behavior toward co-workers. The investigation was conducted, after a postponement, on November 22, 2016. By letter dated December 12, 2016, the Claimant was informed that as a result of the investigation, he had been found guilty as charged, and that he was being dismissed from the Carrier's service. The Organization subsequently filed the instant claim on behalf of the Claimant, challenging the Carrier's decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was provided a fair and impartial investigation, because substantial evidence supports the finding that the Claimant is guilty as charged, and because the discipline imposed was appropriate and should not be reduced. The Organization

contends that the instant claim should be sustained in its entirety because there is no connection between the Carrier and the Claimant's off-duty and off-property conduct, because prescribed medications impaired the Claimant's judgment, because the Claimant's post was not threatening or hostile in nature, and because the discipline imposed was harsh and unwarranted.

The parties being unable to resolve their dispute, this matter came before this Board.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Carrier Operating Rule 104.2 involving workplace violence and the Carrier's Code of Ethics. The workplace violence policy prohibits threats or acts of violence against the Carrier's employees. It also warns that violation of that rule would result in disciplinary action up to and including termination of the employee. The record in this case makes it clear that the Claimant posted on social media the following threats and discourteous statements:

1. Fuck Will Hinnant supervisor on R1. Brace yourself for what's coming next dickhead!
2. You too John Jackson. Guys like you should be kicked out of the union. You're not a brother, you're a brotherfucker!!#

The record reveals that those two statements on social media were sent to Matt Weaver and nine others. Those statements clearly violated the Carrier's policy. The nexus, which the Organization states was not there, is very clear in that those statements relate to the Claimant's job and supervision. The Claimant clearly disrespected and

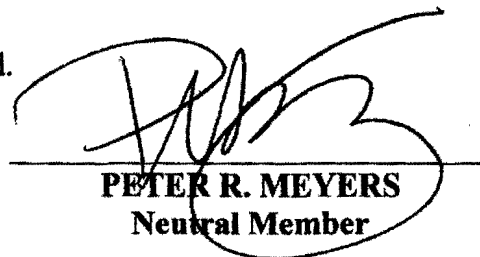
intimidated two CSX management employees via social media, and there were several recipients of that text.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case was dismissed for his wrongdoing. Given the seriousness of the wrongdoing and the clear statement and warning in the Carrier's rules, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant's employment. Therefore, this claim must be denied.

**AWARD:**

The claim is denied.



**PETER R. MEYERS**  
Neutral Member

Dated: April 9, 2018