

**BEFORE PUBLIC LAW BOARD NO. 7529**

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

**Case No. 150**

**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 D91800617/2017-216-421

**FINDINGS:**

By notice dated November 3, 2016, Claimant E.E. Ragland was directed to attend a formal investigation to determine whether the Claimant had violated Carrier rules in connection with information reaching the Carrier on October 21, 2016, about a July 21, 2016, incident in which the Claimant allegedly participated in displaying a hangman's noose to another employee and subsequently concealed facts when asked about the incident on October 14, 2016. The investigation was conducted, after a postponement, on December 20, 2016. By letter dated January 9, 2017, 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. The Organization contends that the instant claim should be sustained in its entirety because the Carrier failed to afford the Claimant a fair and impartial investigation, because the Carrier failed to meet its burden of proof, because the Claimant did not see the noose, and because the discipline imposed was unwarranted.

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

This Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit.

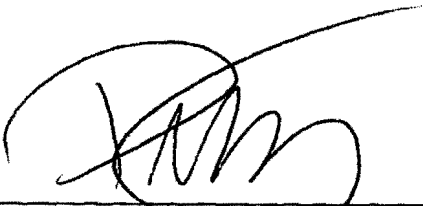
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of participating in the display of a hangman's noose to an African American employee, thereby violating the Carrier's anti-harassment rules. The record reveals that another employee, of African American descent, Kendrick Kelley, notified management in a harassment complaint. The record reveals that the Claimant was standing by a truck with other employees and that truck was displaying a rope in the form of a hangman's noose. Kelley was called over by the employees to take a look at it. The Claimant owned the truck and the rope that were displayed in the photos. The Claimant stated that he did not tie the knot and denied the display of a noose. The Claimant stated that he did not see the rope, despite the fact that it was hanging over his truck and in clear view of the photos that were introduced into the record.

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 guilty of very serious discriminatory behavior in violation of the Carrier's rules that prohibit that type of behavior. The Carrier has rules with a zero-tolerance policy for racial harassment behavior. Moreover, the Claimant was guilty and concealed the facts from the investigator. Given that serious offense on the part of this Claimant, 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