

BEFORE PUBLIC LAW BOARD NO. 7529

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

Case No. 154

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 D91401017/217-216425

FINDINGS:

By notice dated November 28, 2016, Claimant M.A. Maus was directed to attend a formal investigation to determine whether the Claimant had violated Carrier rules in connection with a November 18, 2016, incident in which the Claimant allegedly was involved in a vehicle accident and received a citation for careless driving. The investigation was conducted, after three postponements, on January 5, 2017. By letter dated January 24, 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 substantial evidence supports the finding that the Claimant is guilty as charged, and because the discipline imposed was justified under IDPAP. The Organization contends that the instant claim should be sustained in its entirety because the citation issued to the

Claimant was dropped, 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 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 Rules 103.1 and 104.3 when, while operating a Carrier vehicle, he rolled into incoming traffic at a red light and struck a tractor trailer. The Claimant admitted to the conduct. The record also contains evidence that the citation filed against the Claimant was dropped.

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 was clearly guilty in this case; however, the Claimant was terminated as a result of this traffic incident. This Board cannot find that the Carrier's action in terminating the Claimant's employment for this traffic incident was reasonable. As a matter of fact, we find that this action of the Carrier was unreasonable and arbitrary. Consequently, we order that the Claimant be reinstated to service but without back pay. The period of time that the Claimant was off work shall be considered a lengthy disciplinary suspension.

AWARD:

The claim is sustained in part and denied in part. The Claimant shall be reinstated

to service but without back pay. The period of time that the Claimant was off work shall be considered a lengthy disciplinary suspension.



PETER R. MEYERS
Neutral Member

Dated: April 9, 2018