

**BEFORE PUBLIC LAW BOARD NO. 7529**

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

**Case No. 156**

**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. Carrier's File 2017-217770

**FINDINGS:**

By notice dated October 14, 2016, and amended on October 17, 2016, Claimant T.W. Jackson was directed to attend a formal investigation to determine whether the Claimant had violated Carrier rules in connection with information received on September 27, 2016, that the Claimant allegedly claimed overtime compensation for hours not worked between September 19 and September 21, 2016. The investigation was conducted, after two postponements, on January 24, 2017. By letter dated February 13, 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 justified under IDPAP. 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 Claimant has reported an addiction issue, because the Carrier failed to meet its burden of proof, 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 dishonesty when he put in for overtime for work that he had not performed. Although the Claimant made an adjustment to the payroll records, he still had too much overtime compared to the hotel records. The records are clear that the Claimant, who was the foreman of his team, entered excess overtime for himself for the period September 19 through 21, 2016. The Claimant admitted to his wrongdoing in that regard. The Claimant's excuses were not at all mitigating factors.


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 dishonesty, which would have resulted in

payment to him for hours that he did not work. Although the Claimant contends that he has an addiction issue, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant, who was clearly guilty of stealing time from the Carrier. Therefore, this claim must be denied.

**AWARD:**

The claim is denied.

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**PETER R. MEYERS**  
Neutral Member

Dated: April 9, 2018