PUBLIC LAW BOARD NO. 7544

Brotherhood of Maintenance of Way)	
Employees Division - IBT)	
Rail Conference)	
	}	
and)	Case No. 37
)	Award No. 37
	j	System File No. D-11-16-445-03
)	
SOO Line Railroad Company (CP))	

Background

On February 19, 2016, the Carrier issued to Claimant K. Christen a notice of formal investigation and hearing. The notice stated, in part, the following:

"The purpose of the investigation/hearing is to develop all facts and circumstances and to place responsibility, if any, in connection with your alleged failure to clear the main track block on time causing delay to trains on February 16, 2016. This indicates a possible violation of, but is not limited to, the following rules:

GCOR Rule 1.29 - Avoiding Delays GCOR 1.13 - Reporting and Complying with instructions

On February 26, 2016, the formal investigation and hearing convened wherein Claimant and his representative were afforded the opportunity to present testimony and other evidence as well as examine the Carrier's witness and six (6) exhibits.

On March 9, 2016, the Specialist – Production notified Claimant that the record from the investigative hearing established Claimant's violation of GCOR Rule 1.13 - Reporting and Complying with Instructions. Claimant was assessed a 5-day actual suspension.

On April 7, 2016, the Organization and the Carrier agreed to progress Claimant's discipline dispute for resolution before this Board "utilizing the abbreviated procedure provided for in Paragraph (K) of sald PLB Agreement."

Findings

Public Law Board No. 7544, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employes within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Consistent with the PLB Agreement for this Board, the evidentiary record in this proceeding is comprised of the following: (A) notice of investigation, (B) transcript of investigation and all related exhibits, (C) discipline assessment letter and (D) on-property correspondence related to progression of the claim.

The decision letter does not cite Claimant as having violated Rule 1.29 - Avoid Delays. Thus, the only issue is whether there is substantial evidence that Claimant violated Rule 1.13 - Reporting and Complying with Instructions.

Roadmaster Gray acknowledged that Claimant followed Gray's instructions on February 16, 2016, and that the failure to install the 440 yards of rail was due to frozen ballast conditions, movement of equipment and injury to a crew member. Although Claimant would be required to request more time for his crew to clear the track, in this situation the Roadmaster had contacted the chief dispatcher and made the request. Given these findings, the Board concludes that Claimant complied with Rule 1.13. Therefore, the claim will be sustained with Claimant made whole and no mark on his employment record.

<u>Award</u>

Claim sustained.

Patrick Halter Neutral Member

Anthony Mosso Carrier Member

Dated on this 2017

Organization Member