

PUBLIC LAW BOARD NO. 6384

AWARD NO. 14
NMB CASE NO. 14
UNION CASE NO. 11913
COMPANY CASE NO. 15(01-0041)

PARTIES TO THE DISPUTE:

CSX TRANSPORTATION, INC.
[former Seaboard Coast Railroad

- and -

BROTHERHOOD OF RAILROAD SIGNALMEN

STATEMENT OF CLAIM:

Claim on behalf of K.B. Ford (202132) to be reinstated to his position as Signal Maintainer in Indiantown, FL at such time he is able to return to work.

OPINION OF BOARD:

K.B. Ford (Claimant) began his employment with CSXT in May 1997 and was assigned to the Indiantown Signal Maintainer Force No. 7AK9 when this dispute arose.

Commencing November 28, 2000, Claimant failed to report for work. As a result, in correspondence dated January 23, 2001, Carrier informed Mr. Ford that he had been charged with violating CSXT Operating Rule 500 and directed the Claimant to attend an investigation regarding same.

The hearing was held, in absentia, on January 30, 2001, following Claimant was notified that he had been found guilty as charged, and as a result, was dismissed from Carrier's service.

In March, 2001, the Organization submitted an appeal on behalf of Claimant alleging that Mr. Ford had not received a fair and impartial investigation account the January 30, 2001 hearing

was held in absentia thereby denying Claimant the opportunity to participate in his defense. The General Chairman further alleged that the discipline of dismissal was "arbitrary and excessive as it related to the offense committed."

Carrier denied the claim asserting that Claimant was given proper notice regarding the charges and sufficient time to prepare his defense. Carrier went on to note that claimant was timely notified about the imposition of discipline. With regard to the Claimant's absence at the January 30, 2001 investigation, Carrier noted that Claimant's union representative was present at the prescribed time and location, and fully prepared to handle his defense. Finally, Carrier contended that the testimony and evidence presented established "beyond doubt" that Claimant was in "direct violation" of CSXT Operating Rule 500 and Carrier was left with "no viable alternative" other than dismissing Claimant from service.

At the outset the Organization alleges that Claimant was not afforded a fair and impartial hearing. However, in the circumstances, we do not concur. The record demonstrates that Claimant was afforded all of his "due process" rights, and any contention to the contrary is not supported by substantive evidence. In that connection, although Claimant was not personally present at the January 30, 2001 investigation, his duly authorized representative was present and afforded full opportunity to participate in Claimant's defense.

Turning to the merits of this dispute, Rule 500 of the Agreement states, in pertinent part:

"Employees must report for duty at the designated time and place. Without permission from their immediate supervisor, employees must not:

1. Absent themselves from duty, or;
2. Arrange for a substitute to perform their duties.

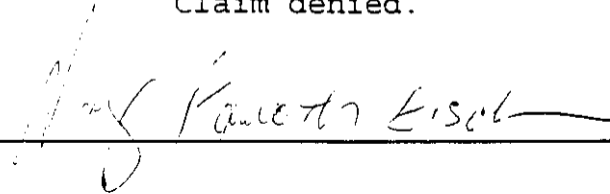
Employees subject to call for duty must be at their usual calling place or furnish information as to where they may be located. When they wish to be absent or if they are unable to perform service, employees must notify the proper authority. They must not wait until a call for duty is received to request permission to be marked off.

Employees must give immediate written notice to their supervising officer of a change in their address or their phone number. Employees must call for their mail regularly and must answer correspondence promptly."

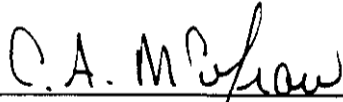
Rule 500, noted supra, requires employees to "notify the proper authority" if they wish to be absent or they are unable to perform service. Commencing November 28, 2000, Claimant, without explanation or "permission from his immediate supervisor", was absent from duty. Claimant did not contact Carrier with regard to his unexplained absence, nor did anyone contact Carrier on Claimant's behalf regarding his unauthorized absence. Continued failure by an employee to report for service on a long-term basis, sans explanation or cause, is unacceptable. Claimant's dismissal was appropriate and cannot be considered harsh or excessive in the circumstances.

AWARD

Claim denied.

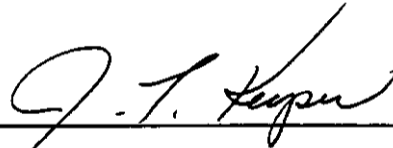


Nancy Faircloth Eischen, Chair



Union Member

Dated: March 14, 2003



Company Member

Dated: 3/14/03