

PUBLIC LAW BOARD NO. 6564

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

CSX TRANSPORTATION, INC.

Case No. 60

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Statement of Claim:

Appeal of ten workdays actual suspension assessed Track Inspector S. A. Hopper on March 29, 2005 as a result of an investigation held on March 10, 2005 in connection with the February 18, 2005 charges of violation of CSXT Operating Rules GR-2, part 4, and GR-5 on February 9, 2005.

Background

This case involves the discipline assessed Claimant S. A. Hopper, a Track Inspector headquartered at Union City, Georgia. At all times relevant, Claimant, who was hired by the Carrier in 1973, worked Monday through Friday, 7:30 a.m. through 4:30 p.m.

The case arose because Claimant, while off-duty, operated a company vehicle and on February 9, 2005 was involved in an at-fault accident. The company vehicle sustained \$6,000 of damage.

By letter dated February 18, 2005, Claimant was instructed to attend a hearing to determine his responsibility for driving a company vehicle home without permission and disregarding instructions to leave the vehicle at his duty headquarters. Following a hearing held on March 10, 2005, Claimant was found guilty of violating CSXT Operating

Rules GR-2, part 4, prohibiting insubordination, and GR-5, requiring employees to exercise care in the use of company property. The Organization appealed, and the matter was processed in the customary manner. A resolution was not achieved, and the claim now comes before this Board for adjudication.

Contentions of the Parties

The Carrier contends that Claimant deliberately disobeyed the instructions of Roadmaster J. D. Stephens prohibiting employees from driving the Carrier's vehicles to and from their homes. These instructions were issued on January 11, 2005, and Claimant had no valid reason to disregard his supervisor's directives.

The Organization contends that for years, the Carrier permitted employees to drive company vehicles home at the end of the work day. While the Carrier claims that it rescinded this practice, Claimant and Supervisor S. A. Frazier had an understanding pursuant to which Claimant was allowed to continue driving the company vehicle to and from work. If Frazier altered this understanding, his new instructions were vague, at best.

Moreover, Claimant testified that on the day of the accident, he had the Carrier's vehicle because he had been instructed to deliver certain material to Union City, on the southwest side of Atlanta. After completing this task, he decided that it made more sense to drive home rather than fight the traffic back to the office and probably incur overtime. Thus, the Organization asserts that Claimant acted responsibly.

Findings

It is undisputed that Claimant was responsible for the accident that occurred while he was off-duty on February 9, 2005. It is also undisputed that he knew that the Carrier had issued instructions on January 11, 2005 which prohibited employees from driving

company vehicles to and from their homes. When he was asked at the hearing whether he was authorized to drive the company vehicle to his residence, he replied:

No, at this time I was---I had been instructed not to drive home but I done some personal talking one on one with some people that authorize driving....

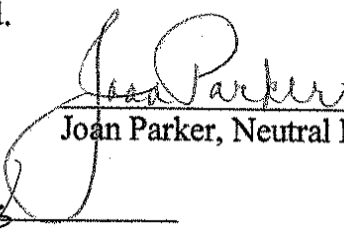
I had had some discussion with Mr. Frazier about my personal business at home and the need for---to use the company truck for a little bit longer. (Carrier Ex. A, p. 13)

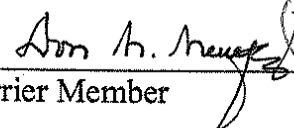
Engineer Track Frazier testified, however, that several weeks earlier, Claimant had sold his personal vehicle and was temporarily without a vehicle. Consequently, Frazier told him that for one week, he could use the company vehicle. According to Frazier, that authority to use the company vehicle had expired as of February 9, 2005. Claimant did not rebut Frazier's testimony that as of February 9, 2005, he knew he was no longer allowed to use the company vehicle.

The credible testimony in the Record supports the Carrier's assertion that Claimant's arrangement to use the company truck was temporary, and Claimant was insubordinate in continuing to drive the vehicle without permission. His insubordinate conduct resulted in an at-fault accident which damaged the Carrier's vehicle. His suspension of ten workdays was, in fact, a lenient penalty, given the seriousness of his offense.

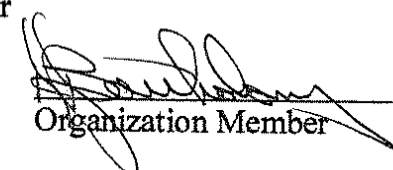
Award

The claim is denied.


Joan Parker, Neutral Member


Carrier Member

Dated: April 23, 2007


Organization Member

Dated: _____