

PUBLIC LAW BOARD NO. 7104

AWARD NO. 35

CASE NO. 35

PARTIES TO
THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division - IBT Rail Conference

vs.

CSX Transportation, Inc.

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The dismissal (seniority termination) of Mr. Joshua A. Lynch for violation of Rule 26(a) of the Agreement is unjust, unwarranted and in violation of the Agreement (System File I60720908/2008-009874 CSX).
2. As a consequence of Part 1 above, we request that Mr. Lynch be reinstated to his position and be made whole for any lost wages."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

After claimant absented himself from work without permission beginning February 11, 2008, he was sent notice on March 7, 2008 pursuant to Rule 26(b), which provides as follows:

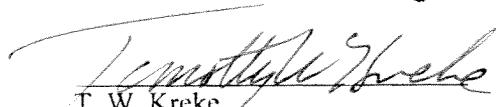
- (b) Except for sickness or disability, or under circumstances beyond his control, an employee who is absent in excess of fourteen (14) consecutive days without notifying his supervisor or proper carrier official will forfeit all seniority under this Agreement.
* * * The employee or his representative may appeal from such action to the carrier's Highest Designated Labor Relations Officer within thirty (30) days under rule 25, Section 3.

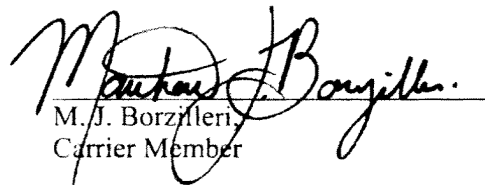
We have carefully reviewed the on-property record for the instant dispute. That review does not reveal any proper basis for finding that Rule 26 was improperly applied when the Carrier invoked the rule as it did. Accordingly, the claim must be denied.

AWARD:

The Claim is denied.


Gerald E. Wallin, Esq., Chairman


T. W. Kreke,
Organization Member


M. J. Borzilleri,
Carrier Member

Date: May 28, 2010