

PUBLIC LAW BOARD NO. 7120

PARTIES TO DISPUTE: (BROTHERHOOD OF MAINTENANCE OF WAY
(EMPLOYEES DIVISION
(
(CSX TRANSPORTATION, INC.

STATEMENT OF CHARGE:

By letter dated April 21, 2010, J. M. Turner, Engineer Track, instructed N. V. Hodges ("the Claimant") to attend a formal Investigation in the conference room at the Carrier's Division Office in Florence, South Carolina, on May 4, 2010, "to determine the facts and place your responsibility, if any, in connection with CSXT Daily Track Inspection Reports you had submitted for the Hamlet Subdivision, in which there were no or only partial corresponding on track equipment movement authorities indicating that you had actually traversed the track shown on the reports. The dates this occurred," the letter continued, "were between March 1, and April 3, 2010."

In connection with the Investigation, the letter continued, the Claimant was "charged [with] failure to perform your Track Inspector duties, conduct unbecoming of a CSX employee, dishonesty, willful neglect of your duties, and possible violation [of], but not limited to CSX Operating Rule A, GR-2 and GR-3, and CSX Engineering Standard MWI 105-08, I (section C), II (section A, part 1)."

FINDINGS:

Public Law Board No. 7120, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as

approved June 21, 1934.

The Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Claimant began his employment with the Carrier on November 29, 2004, and held the position of Track Inspector 5FCF-069 headquartered in Lugoff, South Carolina, at the time of the events here under investigation. He was awarded the position effective February 15, 2010, pursuant to his successful bid.

After a hearing on the above-described charges on May 4, 2010, the Claimant received a letter dated May 21, 2010, finding him guilty as charged and assessing discipline of "immediate termination of employment with CSX Transportation, Inc., effective immediately." He appealed his dismissal before this Board for expedited handling.

The Claimant, however, had also been charged by letter dated April 21, 2010, and removed from service for other alleged violations independent of and separate from the violations that are the subject of the present proceeding. A hearing on those charges was also held on May 4, 2010, prior to the hearing on that date on the present charges. By letter dated May 21, 2010 – the same date as the dismissal letter in this case – the Carrier notified the Claimant of his immediate dismissal on the other charges.

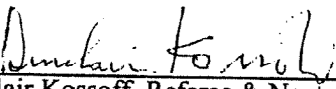
As he did in this case, Claimant Hodges appealed his dismissal on the other charges to this Board for expedited disposition. In Award No. 76 dated August 10, 2010, the Board denied Mr. Hodges's claim and upheld his dismissal. Accordingly this appeal is moot and will be dismissed on that ground.

A W A R D

Claim dismissed as moot.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant not be made.



Sinclair Kossoff, Referee & Neutral Member

Chicago, Illinois
October 4, 2010