

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD No. 7163**

Brotherhood of Maintenance of Way)		
Employees Division, IBT Rail Conference)		
)		
vs.)	Case No.	120
)	Award No.	120
)		
CSX Transportation, Inc.)		

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

1. The Carrier's dismissal of Claimant T. Tucker for violation of Rule 26 of the Agreement for his alleged failure to protect his assignment or contact his supervisor in connection with his alleged failure to report for duty on his position as a machine operator on Force 6G71 beginning on November 29, 2011 and continuing was entirely improper, arbitrary and unwarranted (System File D70801612/2012-116994).
2. As a consequence of the Carrier's violation described in Part 1 above, '... Claimant Tucker shall have the letter dated January 10, 2012 removed from his personal file and his name placed back on all appropriate seniority rosters with the correct seniority dates, and he shall be compensated with all straight time, and overtime, he would ordinarily be entitled to receive beginning January 11, 2012, and continuing, and all fringe benefits he may be entitled to receive would be re-activated as of January 11, 2012 continuing until this violation stops. ***' (Employees' Exhibit 'A-2')."

[Organization Submission at 1]

Findings:

Public Law Board No. 7163, upon the whole record and all the evidence, finds that (1) the parties to this dispute are Carrier and Employees within the meaning of the Railway Labor Act as amended, (2) the Board has jurisdiction over this dispute, and (3) the parties to the dispute were accorded due notice of the hearing and participated in this proceeding.

This claim was timely presented by the Organization and responded to by the Carrier during on-property processing including conference. Having addressed this claim in the customary and usual manner, the record established by the parties is now before the Board for adjudication.


On August 7, 2006 the Claimant entered on duty with the Carrier in the Bridge & Building Department. On June 13, 2011 he was awarded the position Machine Operator on Force 6G71 for the Clifton Forge Seniority District of the C&O Division.

On January 10, 2012 the Carrier notified Claimant that his seniority was terminated pursuant to Rule 26(b) because he failed to protect his assignment during his absence beginning November 29, 2011 and continuing thereafter.


The Board finds, based on the specific facts presented in this case, the Claimant shall be reinstated to service with his seniority rights unimpaired, but without backpay for any time lost.

Award:

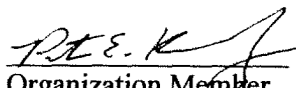
As specified in the findings.



Patrick J. Halter
Neutral Member
PLB No. 7163 Case No. 120



Carrier Member
Robert A. Paszta



Organization Member
Peter E. Kennedy

Dated this 16th day of November, 20 12