

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 28

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JAN 22 1992

PARTIES: CSX TRANSPORTATION, INC.

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

CSX TRANSPORTATION
EMPLOYEE RELATIONS

STATEMENT OF CLAIM:

Suspension of A. T. Cheaves (ID No. 147774) from August 23, through September 8, 1991, as a result of investigation held on August 28, 1991.

FINDINGS:

Claimant A. T. Cheaves was employed by the Carrier as an apprentice foreman.

On August 23, 1991, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charges:

. . . conduct unbecoming an employee, in that it is alleged you received funds from a vendor, to which you were not entitled, for work billed to CSX Transportation.

You are being withheld from service pending determination to be made of the facts developed in the investigation.

The hearing was held on August 28, 1991. On September 12, 1991, the Carrier notified the Claimant that he had been found guilty of the charges brought forth against him and was being assessed discipline in the form of the time he was held out of service from August 23, 1991, until notified to return on September 9, 1991, without pay. The Carrier extended leniency to the Claimant based upon his length of service with the Carrier.

The Organization thereafter filed a claim on the Claimant's behalf challenging his discipline, and this matter came before

this Board.

This Board has reviewed the evidence and testimony in this case, and we find that the Carrier has not presented sufficient evidence to support the finding that the Claimant was guilty of conduct unbecoming an employee. Therefore, the claim must be sustained.

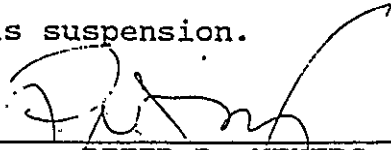
The Claimant was charged with the offense of conduct unbecoming an employee because he allegedly received funds from a vendor to which he was not entitled. A thorough review of the transcript indicates that although the Claimant received the check from the vendor made out in his name, he merely endorsed the check and turned it over to a supervisor. There is no showing that the Claimant received any of the funds set forth in those checks, and it appears from the record that all of the monies went to the supervisor, Mr. Phillips. Mr. Phillips may have been involved in a kick-back scheme with the oil company, but there is insufficient proof in the record to show that the Claimant was involved in that same scheme.

Since the Carrier has not presented sufficient proof of the allegations set forth in the charges, this claim must be sustained.

AWARD:

Claim sustained. The Claimant shall be made whole for all

monies lost during his suspension.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

Dated: March 4, 1992