

PUBLIC LAW BOARD NO. 6965

Award No. 135

PARTIES **System Council No. 6 of the
International Brotherhood of Electrical Workers**

TO **-and-**

DISPUTE **CSX Transportation, Inc.**

STATEMENT OF CLAIM

In accordance with the controlling Agreement, between System Council No. 9, of the International Brotherhood of Electrical Workers and CSX Transportation Inc., we are herein instituting claim on behalf of Electrical Worker J. A. Martin (209566), as a result of Carrier's unjust discipline, consisting of a one (1) calendar day suspension.

Carrier's assessment of discipline is a violation of the controlling Agreement, in particular but not limited to Rule 30, and can only be viewed as an abuse of managerial discretion, that the Carrier's actions were arbitrary, discriminatory and capricious, when it disciplined Electrical Worker Martin.

We, the Electrical Workers Committee, therefore request Electrical Worker Martin be compensated for any and all lost wages, including lost work opportunities, as a result of this unjust discipline; that Electrical Worker Martin be made whole for all fringe benefits, including but not limited to health, dental disability and life insurance, vacation and retirement credits, to which he would be entitled by virtue of his continued employment as an Electrical Worker; and Electrical Worker Martin's personal record be expunged of any and all references to this unjust discipline.

FINDINGS

The Board, after hearing upon the whole record and all the evidence, finds that the Carrier and Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as amended, that the Board has jurisdiction over the dispute involved herein and that the parties were given due notice of hearing thereon.

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The Claimant was assessed a one (1) day suspension following a formal investigation in connection with the following:

...information received January 11, 2021, that on December 31, 2020, at approximately 0640 hours, while working at or near Waycross Loco Shop, you failed to properly research the CSXT 933 for repeated DP failures which resulted in another failure for the same issue, and all circumstances relating thereto.

At the formal investigation, Assistant Plant Superintendent Brown testified that when the Claimant performed repair work on the distributive power (DP) system on locomotive 933 on December 31, 2020, he failed to properly research the history of the locomotive and could have better repaired the DP issue. Specifically, Mr. Brown stated that the Claimant should have replaced the DP radio and performed additional testing on the antenna. The Assistant Superintendent also testified that on January 11, 2020, the locomotive experienced another DP failure while on line of road, resulting in a train delay.

Without going into extensive technical detail regarding the various steps that the Claimant followed in making the repair of the DP system on December 31st, the Board notes that the incident with the locomotive occurred 11 days after the Claimant had worked on the locomotive and at the investigation, it was noted that the DP radio had not been replaced at the time of the investigation. The Board finds that the Carrier failed to establish by substantial evidence a nexus between the Claimant's alleged failure to properly repair the DP and the subsequent DP failure on the locomotive.

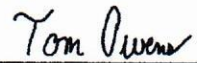
The Board finds that the Carrier failed to sustain its burden of proof and rules that the discipline should be removed from the Claimant's record and he should be paid time lost, if any, as a result of the discipline.

AWARD

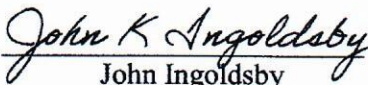
Claim sustained. The Carrier is directed to make the Award effective within 30 days of the date of this Award.



Joseph M. Fagnani, Neutral Member



Tom Owens
Employee Member



John Ingoldsby
Carrier Member

DATED: 08/31/2022