

PUBLIC LAW BOARD NO. 6965

Award No. 137

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 L. D. Goemaat (266773), 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 Goemaat.

We, the Electrical Workers Committee, therefore request Electrical Worker Goemaat be compensated for any and all lost wages, including lost work opportunities, as a result of this unjust discipline; that Electrical Worker Goemaat 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 Goemaat'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.

Public Law Board No. 6965
Award No. 137

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

...information received that on May 6, 2021, at approximately 1800 hours, while working at or near the Locomotive Shop, you were operating from the cab of CSXT 4016 and failed to verify the switch was not properly lined, and all circumstances relating thereto.


The investigatory record indicates that on the subject date, the Claimant and another employee (Powell) had performed work on locomotive 4016 and in order to test the brakes, the locomotive was required to be operated back and forth. It is not disputed that Mr. Powell, acting as the groundman lined the track 11 switch and then inadvertently lined the track 12 switch against the intended movement. The Claimant operated the locomotive through the 11 switch and stopped after the first three axles of the locomotive went through the track 12 switch. Since the switch was not properly lined, the switch was split and when the Claimant initiated a reverse movement through the switch, the locomotive derailed. The Carrier submits that the Claimant violated Operating Rule 401.3 which requires that prior to initiating movement, the employees involved must ensure that the switches are properly lined and the route is clear.

It is the Organization's position that the Mr. Powell, as the groundman, was solely responsible, since he originally misaligned the switch and gave the Claimant the signal to proceed. At the investigation, the Claimant's representative cited several operating rules which he contended support his position.

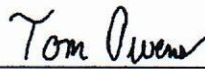
Upon review of the entire record, the Board finds that prior to initiating the forward movement from the track 11 switch to the track 12 switch, both the Claimant and the groundman were required under Operating Rule 401.3 to ensure the switches were properly lined and the route was clear. The Board does not find that the operating rules cited by the Organization lessened the Claimant's joint responsibility in this incident. Relative to the discipline assessed in this case, the Board finds that the discipline was not arbitrary or excessive and will not be disturbed by the Board.

AWARD

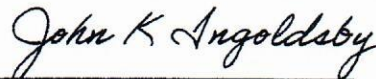
Claim denied.



Joseph M. Fagnani, Neutral Member



Tom Owens
Employee Member



John Ingoldsby
Carrier Member

DATED: 08/31/2022