

PUBLIC LAW BOARD NO. 6076

PARTIES TO DISPUTE:

UNITED TRANSPORTATION UNION))	
(YARDMASTERS DEPARTMENT))	
)	NMB CASE NO. 20
VS)	AWARD NO. 20
)	
CSX TRANSPORTATION, INC.)	

STATEMENT OF CLAIM:

On behalf of Yardmaster E. W. Thayer that the twenty (20) day suspension, and any and all references to this incident be stricken from Yardmaster Thayer's personal file. Furthermore, I make claim for twenty (20) days of lost earnings from June 20, 2002 through July 9, 2002 and all vacation entitlements and railroad retirement credits be restored. Also an additional eight (8) hours pay for Yardmaster Thayer for May 20, 2002, the day of the investigation.

FINDINGS AND OPINION

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended. This Board has jurisdiction of the dispute here involved. The parties to this dispute were duly notified of hearing thereon.

Claimant was summoned to a formal investigation on a charge of marking off at 2150 hours, Sunday, May 5, 2002, after the 2 hours calling time for a relief, and making false and misleading statements. Following the investigation Carrier found claimant guilty of the charges against him and imposed a 20 day suspension from service as discipline.

This Board has had the opportunity to review the transcript of investigation, together with all other documents submitted by the parties and it is our finding that Carrier has produced sufficient evidence to justify its decision that claimant was guilty of the charges against him.

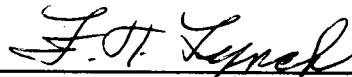
The Board must note that claimant was first employed on August 6, 1998, and the only mark on his discipline record was a "time-out" session for a blue flag violation on April 19, 2002. Under the circumstances the Board is inclined to agree with the argument presented by the Organization that the 20 day suspension from service was excessive.

It has long been held in this industry that discipline should be instructive rather than punitive. In this particular instance it appears that Carrier has imposed a maximum sentence for a first time offense.

While this Board cannot agree that claimant's actions were proper, we believe a more appropriate discipline would have been a 5 day suspension from service. Consequently, it is the decision of this Board that the 20 day suspension be reduced to a 5 day suspension. Claimant is entitled to be compensated for time lost during the additional 15 days he was withheld from service.

AWARD

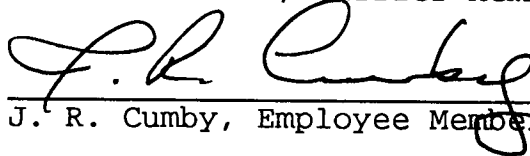
Claim disposed of as set forth in the above findings. Carrier is instructed to comply with this Award within thirty days of the date hereof.



F. T. Lynch, Neutral Chairman



S. R. Friedman, Carrier Member



J. R. Cumby, Employee Member

Award date Sept. 15, 2004