

PUBLIC LAW BOARD NO. 6468

PARTIES TO DISPUTE:

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| BROTHERHOOD OF LOCOMOTIVE ENGINEERS) |) | |
| AND TRAINMEN |) | |
| |) | NMB CASE NO. 192 |
| VS |) | AWARD NO. 192 |
| |) | |
| CSX TRANSPORTATION, INC. |) | |

STATEMENT OF CLAIM:

I am asking that any and all notation of this matter be expunged from W. T. Roberson's records and that he be compensated for any and all monies and or time lost for attending this 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.

Claimant was summoned to a formal investigation on a charge that he did not meet the minimum availability requirements for the period of January 9, 2006 through February 5, 2006, in accordance with special instructions outlined in system notice, and all circumstances relating thereto. Following the investigation Carrier found claimant guilty of the charge and assessed a seven (7) 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. We must note that the transcript clearly indicates that claimant marked off due to sickness in his family on January 20, 21 and 22, 2006. Evidence was produced affirming the fact that claimant's son was hospitalized on the three days in question.

Based on the record before us it is difficult for this Board to understand just why claimant was suspended from service for seven days for seeing to it that his son was properly cared for during such time. It must, therefore, be our finding that Carrier erred in assessing the discipline here involved. The claim must be sustained.

AWARD

Claim sustained. Carrier is instructed to comply with this Award within thirty days of the date hereof.

F. T. Lynch
F. T. Lynch, Neutral Chairman

H. J. Garcia - Dissent attached
H. J. Garcia, Carrier Member

Paul T. Sorrow
Paul T. Sorrow, Employee Member

Award date 07/10/07

CARRIER MEMBER'S DISSENT TO AWARD 192

OF

PUBLIC LAW BOARD No. 6468

The sole premise on which this case was sustained was on the allegation made by the Claimant during the investigation that he was marked off sickness in family between Friday, January 20 and Sunday, January 22, 2006, account his son was in a hospital.

As the Carrier pointed out during the on-property handling, there were four medical documents submitted by the Claimant in support of the hospitalization of his son (Carrier Exhibit A, pages 23-26). Pages 25 and 26 are identical documents from the Family Health Group in Columbia, TN, that indicate that William K. Roberson was seen as an outpatient on January 16, 2006, at 0915 for a persistent cough and fever. He was given a flu shot and released to return on as as-needed basis within the next month. It is interesting to note that the Claimant accepted a call on this very day, January 16th, at 0858. This duplicate document has absolutely nothing to do with the instant case except to serve doubt that the Claimant ever accompanied his 16-year old son to the doctor.

Page 24 of Carrier Exhibit A is a bill from Maury Regional Hospital in Columbia, TN, covering a CT Scan that the Claimant's son underwent as an outpatient on Friday, January 20, 2006. As information, a CT Scan takes between five and 30 minutes to complete. It is noted that the Claimant marked off two days family illness on January 20th at 1235 even though his 16-year old son was scheduled to undergo a painless diagnostic test that takes minimal time. Again, there is no evidence that the Claimant accompanied his son to Maury Regional Hospital to have this test performed.


The Claimant remained off the remainder of the weekend, Saturday, January 21, and Sunday, January 22, even though there is no evidence that his son was hospitalized or needed his care. In fact, the medical documentation, on record and provided by the Claimant, indicates that his son received no medical attention of any kind on these days.

Page 23 of Carrier Exhibit A involves Monday, January 23rd, which is not at issue in this case.

This Award leaves the reader with the impression that the Carrier is a cold, heartless employer who will not let an employee off if his child is hospitalized. As indicated above, the medical documentation was thoroughly explained in the Carrier's on-property handling. Furthermore, the medical documentation speaks for itself. For this Board to accept the Claimant's uncorroborated testimony that his son was hospitalized in full view of the fact that the medical documentation clearly proves otherwise is inexcusable.

This Board has awarded the Claimant a free pass while he continues to be an undependable, part-time employee as a future case will attest.

For the above reasons, the Carrier dissents and considers this award to be erroneous and not to serve as precedent.



H. Joseph Garcia