

PUBLIC LAW BOARD NO. 6468

PARTIES TO DISPUTE:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS))	
AND TRAINMEN)	
)	NMB CASE NO. 204
VS)	AWARD NO. 204
)	
CSX TRANSPORTATION, INC.)	

STATEMENT OF CLAIM:

It is requested that Engineer C. F. Snyder, ID #176945, record be cleared of this charge and discipline of two (2) days overhead for six (6) months and paid for all lost time as the result of being required to attend the hearing conducted July 13, 2006.

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 during the period from April 10, 2006 through June 4, 2006. Following the investigation Carrier found claimant guilty of the charge and assessed a 2 day overhead suspension for six months as discipline.

This Board has had the opportunity to review the transcript of investigation, together with all other documents submitted by the parties. It is noted that during the investigation Carrier's witness, Road Foreman Couch, clearly testified that claimant did not miss any work on the date he marked off sick (see transcript page 15). The Board will call attention to our Award No. 185 where it was stated in part "If a given employee would not have been called and worked, any such days should not be counted as unavailable." Applying that principle to the instant dispute, it is obvious claimant did not miss any work on the days he marked off sick; therefore, he cannot be penalized for not being "available" on such days. 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
H. J. Garcia, Carrier Member

Paul T. Sorrow
Paul T. Sorrow, Employee Member

Award date 07/10/07