

PUBLIC LAW BOARD NO. 5881

Case No. 24
Award No. 24

PARTIES TO DISPUTE: BROTHERHOOD OF LOCOMOTIVE ENGINEERS

-and-

CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

Claim of Engineer G.E. Chapman for removal of discipline
(10 day actual suspension) from his personal record and pay for all time lost.

FINDINGS:

This Board, upon the whole record and all the evidence, finds as follows:

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway labor Act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

The material facts that led to this proceeding are not in dispute. The Claimant is an Engineer with Corbin, Kentucky, his assigned territory. In November, 1995, he was on the Engineers' Extra Board at Entowah, Tennessee, his headquarters.

On November 8, 1995, at 9:59 p.m., the Claimant marked off for an appointment with his doctor. He had minor outpatient surgery scheduled for November 9, 1995. Two cysts were removed from his right eye around 2:45 p.m. on November 9, 1995. Following his surgery, the Claimant went home and went to bed.

On November 10, 1995, around 8:00 a.m. Trainmaster D.E. Sevier telephoned the Claimant at home and requested that he mark up because the Carrier was experiencing a shortage of Engineers. When the Claimant told Trainmaster Sevier that he had surgery the day before Mr. Sevier told him to disregard the call. Approximately one (1) hour later, the Claimant marked back up on the Extra Board and worked on Train R2809 that afternoon.

On November 17, 1995, the Claimant was notified to attend an investigation to determine his responsibility, if any, for his unauthorized absence from the Engineers Extra Board at 8:50 p.m. on November 10, 1995. According to the Carrier, employees who mark off for a medical appointment must mark back up after 24 hours. The Carrier contends that the Claimant violated this policy when he failed to mark up on the extra board by 8:50 p.m. on November 10, 1995. As a result, he was assessed a 10 day actual suspension on March 3, 1996.

When the Claimant marked off on November 8, 1995, he was unaware of the Carrier's verbal policy requiring employees who mark off for a medical appointment to be off only 24 hours. He therefore never requested to be off only 24 hours. It must be noted that the Engineers' Agreement does not state that Engineers who mark off for a medical appointment must mark back up after 24 hours.

The Claimant acted prudently by not marking up after his surgery on November 9, 1995, since he had trouble seeing out of one eye. Approximately 12 hours after the Carrier contends the Claimant was required to mark up he marked up and worked a train three hours later. Under all these circumstances, this Board finds the 10 day actual suspension assessed the Claimant unwarranted. It must therefore be removed from his record and the Claimant must be made whole for all lost time.

AWARD: Claim sustained.

Carrier is directed to make the within Award effective on or before thirty (30) days from the date hereof.

Robert M. O'Brien
Robert M. O'Brien, Neutral Member

Paul T. Sorrow
Paul T. Sorrow, Organization Member

Patricia A. Madden
Patricia A. Madden, Carrier Member

Dated:

4/30/99