

Organization File: J.Duncan  
CSXT File No.: 101032

PUBLIC LAW BOARD NO. 6468

PARTIES TO DISPUTE:

|                                      |   |                  |
|--------------------------------------|---|------------------|
| BROTHERHOOD OF LOCOMOTIVE ENGINEERS) | ) |                  |
| AND TRAINMEN                         | ) |                  |
|                                      | ) | NMB CASE NO. 193 |
| VS                                   | ) | AWARD NO. 193    |
|                                      | ) |                  |
| CSX TRANSPORTATION, INC.             | ) |                  |

STATEMENT OF CLAIM:

I am requesting that Mr. Duncan be paid for time lost attending this investigation and any and all notations on his record of this incident be removed.

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 January 23, 2005 through February 19, 2005, in accordance with special instructions outlined in system notice. 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; and it is our finding that the record reveals claimant actually worked on 22 days during the 28 day period under review. The investigation was basically conducted because claimant was off due to sickness on four weekend days in addition to the actual time worked.

Based on the record in its entirety, it is the finding of this Board that Carrier has failed in its burden to produce substantial evidence that claimant was guilty of the charge against him. Accordingly, the claim must be sustained.

Award No. 193

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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