

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN

AWARD NO. 61
CASE NO. 61
FILE: M0114-1013

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

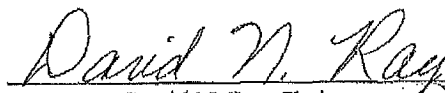
STATEMENT OF CLAIM: Claim of MidSouth Rail Engineer Roderick Roberson for removal of sixty (60) days actual suspension from service consisting of thirty (30) days to be served as actual time off (November 15, 2014 continuing through and including December 14, 2014) and thirty (30) days record suspension and compensation for time lost plus one (1) day for attending the investigation held on November 20, 2014 for the alleged violation of KCS Railway Company's General Code of Operating Rules 5.4.7-Display of Red Flag or Red Light and the KCS Railway Company's Air Brake Systems and Train Handling Rules 109.1- Engineer and Conductor General Responsibilities in connection with his alleged failing to stop short of a red flag during an operational test while serving as an Engineer on the MSHAR-14 at approximately 1:57 p.m. on November 14, 2014 at or near Mile Post V169.8 in Shreveport, LA on the Shreveport Terminal Subdivision. The Organization requests that Engineer Roberson be compensated for all time lost from the suspension and that all notations of discipline be expunged from his personal work record.

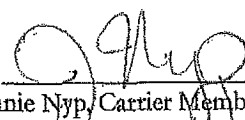
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

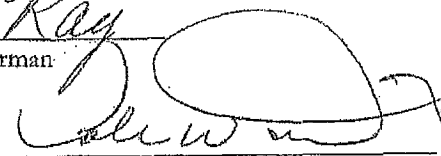
Claimant was employed on August 9, 2004, and was subsequently promoted to engineer. On November 14, 2014, Claimant was engineer on the MSHAR-14 out of Shreveport, Louisiana. Claimant left Kansas City with two locomotives, 27 loads and 114 empties at 7299 tons and 8944 feet. At Milepost V169.8 near Shreveport Terminal, Claimant went by red flag absolute-stop indication. As a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension (thirty actual and thirty record).

There is substantial evidence to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. The Organization argues Claimant lost communication with the engines on the rear of the train causing Claimant to pass the red flag by ten feet. The evidence provided and Carrier witness testimony shows that Claimant violated the Carrier's operating rules and was not operating his train at restricted speed. The discipline was in accordance with Carrier's Discipline Policy. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

AWARD NO. 62
CASE NO. 62
FILE: M0115-1020

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

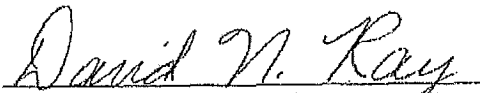
STATEMENT OF CLAIM: Claim of SouthRail Engineer Oliver Black for removal of sixty (60) days suspension, consisting of thirty (30) days to be served as actual time commencing retroactive from December 27, 2014 continuing through and including January 25, 2015 and a thirty (30) days record suspension that was not served but recorded in SouthRail Engineer Olive Black's personnel file as an actual suspension for the alleged violation of KCS's Air Brake Systems and Train Handling Rules and Instructions 104.3.3-- Independent Brake (Locomotive Brake) in connection with an incident that occurred on November 29, 2014 at approximately 3:15 a.m. while serving as an Engineer on the MARSH-28, it was alleged that he failed to properly perform his duties in a safe and proper manner resulting in locomotive damage. This alleged incident occurred on the Meridian Subdivision. The Organization requests that Engineer Black be compensated for all time lost from the suspension and that all notations of discipline be expunged from his personal work record, including one day's pay for attending the hearing.

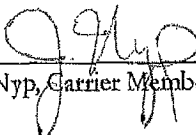
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

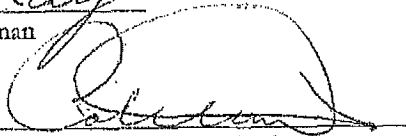
Claimant was employed on November 6, 1989, and was subsequently promoted to engineer. On November 29, 2014, Claimant was engineer on the MARSH-28 out of Artesia, Mississippi. Claimant reported that damaged brake shoes on his engine needed replaced. The matter was investigated and as a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension (thirty actual and thirty record).

There is substantial evidence, including Claimant's testimony, to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. The Organization argues Claimant was honest and forthright and the discipline was excessive. The evidence provided shows that Claimant violated the Carrier's operating rules when he operated with the locomotive brakes applied from Milepost 1.7 to Milepost 29.04, causing damage to the engine. The discipline was in accordance with Carrier's Discipline Policy. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN

TO

AWARD NO. 63
CASE NO. 63
FILE: M0115-1106

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

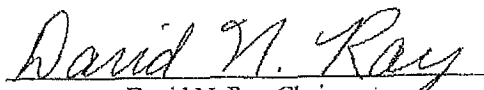
STATEMENT OF CLAIM: Claim of KCS-MidSouth Engineer Joel Suggs for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on July 27, 2015. This claim shall include all wage equivalents to which he is entitled, including wages when wrongfully withheld from service, pending Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the KCS-MidSouth Railroad for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 1.10 - Games, Reading, or other Media and Instructions for Handling Hazardous Materials.


FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

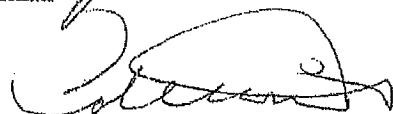
Claimant was employed on September 14, 1991, and was subsequently promoted to engineer. On July 8, 2015, Claimant was engineer on a yard job in Pearl, Mississippi. A Carrier supervisor boarded Claimant's locomotive at Milepost 91 in Jackson, Mississippi and found Claimant reading a book. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

There is substantial evidence, including Claimant's testimony, to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. The Organization argues Claimant was honest and forthright, there was no work to be done and the discipline was excessive. The evidence provided shows that Claimant violated the Carrier's operating rules when he read his magazine while on duty. The discipline was in accordance with Carrier's Discipline Policy. However, in view of Claimant's record and his tenure, the Board will give Claimant a final opportunity to prove he can be a valued asset for the Carrier. The Board will return Claimant to service, but without pay for time lost.

AWARD: Claim sustained, in part, in accordance with Findings.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO

AWARD NO. 64
CASE NO. 64
FILE: M0115-1112

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS-MidSouth Engineer Joel Suggs for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on July 27, 2015. This claim shall include all wage equivalents to which he is entitled, (including wages when wrongfully withheld from service pending), Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the KCS-MidSouth Railroad for alleged violation of the Kansas City Southern Railway Company's General Code of Operating Rules 10.1 - Authority to Engineer CTC Limits; The Kansas City Southern Railway Company's Special Instructions Rule 9.1.9 - Block Signals, Stop; and The Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules 109.1 - Engineer and Conductor Responsibilities and Certification; General Responsibilities.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on September 14, 1991, and was subsequently promoted to engineer. On July 8, 2015, Claimant was engineer on a yard job in Pearl, Mississippi. Claimant's crew was involved in a derailment. After an investigation, it was discovered that Claimant operated past a red signal. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

There is substantial evidence to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. Claimant states he had an Approach signal, but admitted there could have been a glare from the sun on the signal. The evidence and witness testimony provided shows that Claimant violated the Carrier's operating rules when he operated past the red signal. The Organization argues the discipline was disparate. We do not agree. Claimant was the only person who saw the signal and proceeded through it. The discipline was in accordance with Carrier's Discipline Policy. However, in view of Claimant's record and his tenure, the Board will give Claimant a final opportunity to prove he can be a valued asset for the Carrier. The Board will return Claimant to service, but without pay for time lost.

AWARD: Claim sustained, in part, in accordance with Findings.



David N. Ray, Chairman



Jennie Nyp, Garter Member



Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE AWARD NO. 66
 ENGINEERS AND TRAINMEN CASE NO. 66
 TO FILE: M0115-1124

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

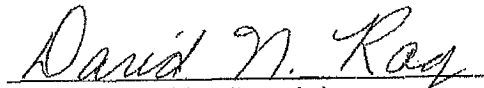
STATEMENT OF CLAIM: Claim of SouthRail Engineer Oliver Black for removal of a 60-day suspension consisting of thirty (30) days to be served as actual time commencing retroactive from August 26, 2015 - September 24, 2015 and a thirty (30) days record suspension that was not served but recorded in his personnel file as an actual suspension for the alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 5.4.7 - Display of Red Flag, GCOR Rule 6.27 - Movement of Restricted Speed and the Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules and Instructions 109.1 - Engineer and Conductor Responsibilities and Certification, General Responsibilities in connection with an incident that occurred on August 25, 2015 at approximately 6:26 a.m. The discipline assessed to Engineer Oliver Black was assessed by Assistant Vice President Rick Pennington following an investigation held on September 3, 2015.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

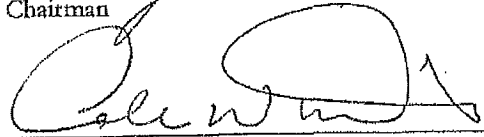
Claimant was employed on November 6, 1989, and was subsequently promoted to engineer. On August 25, 2015, Claimant was engineer on the MARSH-24 out of Artesia, Mississippi. The Carrier was performing efficiency checks by placing a red board at Milepost 71 on the Meridian Subdivision. Claimant while operating at restricted speed hit the red flag. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

There is substantial evidence, including Claimant's testimony, to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. Claimant saw a clear signal and rather than operating at restricted speed until arriving at that signal choose to speed up in violation of Carrier rules. The discipline was in accordance with Carrier's Discipline Policy. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO

AWARD NO. 67
CASE NO. 67
FILE: G0115-1129

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

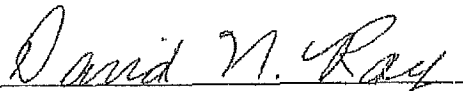
STATEMENT OF CLAIM: Claim of KCS-GWWR Engineer Lynn Sullivan for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on October 28, 2015. This claim shall include all wage equivalents to which he is entitled, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the KCS-GWWR Railroad for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 1.15 - Duty Reporting or Absence and Kansas City Southern Railway Company's System Circulars No. 001-TE&Y Attendance Procedure.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.


Claimant was employed on April 23, 2001, and was subsequently promoted to engineer. On October 7, 2015, while working as a pool engineer out of Kansas City, Kansas, Claimant was charged with being in violation of Carrier's attendance policy between June 30, 2015 and September 29, 2015. As a result, a hearing was scheduled and based on the evidence, Claimant was dismissed.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization points out Claimant's personal problems in dealing with his mother's health issues and his brother's illness. Claimant was off sick or family emergency on thirty days, many on week ends. In spite of difficult personal problems, the Carrier has a right to expect regular and reliable attendance from employees. The Board finds no reason to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO
DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 68
CASE NO. 68
FILE: M0116-1134

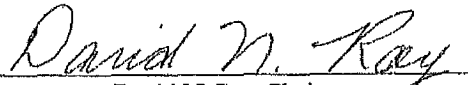
STATEMENT OF CLAIM: Claim of KCS-MidSouth Engineer Torrish Pearson for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on November 10, 2015. This claim shall include all wage equivalents to which he is entitled, including wages when wrongfully withheld from service pending, Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the KCS-MidSouth Railroad for alleged violation of the Kansas City Southern Railway Company's General Code of Operating Rules 1.5.

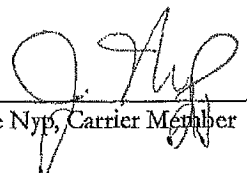
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

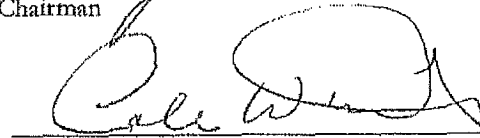
Claimant was dismissed for violating Carrier's Drug and Alcohol rules and policies on November 20, 2012. On September 24, 2014, Claimant, the Organization and the Carrier agreed to Claimant's reinstatement subject to various conditions. One of the conditions was that Claimant not violate Carrier's Drug and Alcohol rules and policies for the remainder of his employment. Claimant failed a follow up alcohol test on October 31, 2015. As a result, Claimant was dismissed.

The conditions of the reinstatement were clear. Claimant violated those conditions and the parties agreed Claimant would be returned to the status of a dismissed employee without the benefit of a formal investigation. The Organization points out an investigation was held without any determination made mistakenly suggesting holding a hearing negated the agreement of the parties. Claimant knew the conditions of his reinstatement and must live with the consequences. The Board will not overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
TO

AWARD NO. 69
CASE NO. 69
FILE: 2016-0251/M0116-1137

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

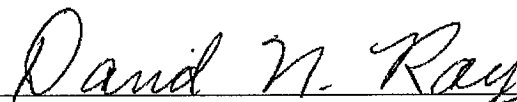
STATEMENT OF CLAIM: Claim of Conductor Rowe Viola for the removal of two(2) points assessed under the Availability Policy for Train, Engine & Yard (TE&Y) Employees following the formal investigation held on December 18, 2015 convening at 11:40 a.m. and concluding at 12:13 p.m. in connection with Engineer Viola's alleged failure to protect his employment obligations per guidelines set forth in the KCS System Circular No. 001 – Availability Policy for Train, Engine & Yard (TE&Y) Employees dated April 1, 2015. Carrier alleged that Conductor Rowe Viola demonstrated an unacceptable pattern of layoffs from August 13, 2015, to November 12, 2015.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

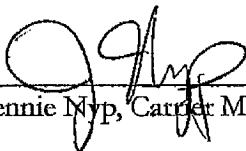
Claimant was employed on October 16, 2000. On November 20, 2015, while working as a conductor out of Bossier City, Louisiana, Claimant was charged with being in violation of Carrier's attendance policy between August 13, 2015 and November 12, 2015. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed two points.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization argues that Claimant was not warned regarding his attendance and there was no excessive pattern of layoffs. During the test period, Claimant marked off fifteen times in addition to his twenty five rest days. Carrier's Policy prohibits frequent personal lay offs. Claimant even stated "if you compare me to my peers I'm sure that I'm very high". The Board finds no reason to overturn the Carrier's decision.

AWARD: Claim denied.



David N. Ray, Chairman



Jennie Nyp, Carrier Member



Cole W. Davis, Employee Member

Signed at Estero, Florida on January 17, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 70
CASE NO. 70
FILE: 2016-0268

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

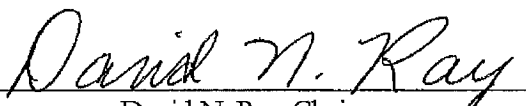
STATEMENT OF CLAIM: Claim of KCS Engineer Willie George for the unwarranted discipline of thirty (30) days suspension, of which five (5) days actual time off (January 30, 2016 through February 3, 2016) and twenty-five day recorded suspension assessed to Engineer George. This claim request the removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The The Kansas City Southern Railway Company's General Code of Operating Rules 5.4.7 – Display of Red Flag, GCOR Rule 6.28 – Movement on Other than Main Track and The Kansas City Southern Railway Company's Air Brake Train Handling Rules and Instructions 109.1 - Engineer and Conductor Responsibilities and Certification, Engineer and Conductor General Responsibilities.


FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

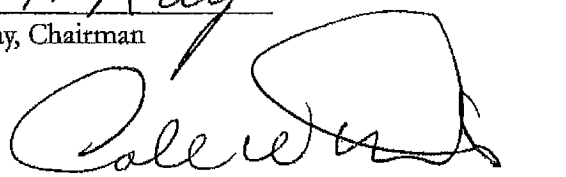
Claimant was employed on April 4, 1994, and was subsequently promoted to engineer. On January 29, 2016, Claimant was engineer on the ^{CW}VC107-28 out of Shreveport, Louisiana. Company Officers were performing operational tests in Shreveport Terminal by placing a red flag at Milepost 554.7. Claimant's train fail to stop short of the red flag. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

There is substantial evidence to support the charges. The Organization stated the bright sun with no engine visors and the small flag warrant that no discipline be assessed. Claimant was not operating at a speed which allowed him to stop before the red signal. The train was going eight miles per hour and should have been operating at a lower speed if the sun was effecting the ability to see the track. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
TO

AWARD NO. 71
CASE NO. 71
FILE: 2016-0501

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY


STATEMENT OF CLAIM: Claim of KCS Engineer Caleb Tucker for the unwarranted discipline of letter of reprimand. The Brotherhood of Locomotive Engineers and Trainman request the removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The The Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules 107.10.8 - Emergency Brake Application.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on November 1, 2004, and was subsequently promoted to engineer. On May 23, 2016, Claimant was engineer on the M-ARSH-22 out of Shreveport, Louisiana. Claimant's train went into emergency in Brandon, Mississippi. The Carrier reviewed the downloads from the locomotives and found Claimant failed to apply the independent brake on the lead locomotive. As a result, a hearing was held and based on the evidence, Claimant was assessed a letter of reprimand.

There is substantial evidence to support the charges. The Organization stated the Claimant used good judgement and took the appropriate course of action based on his experience and that no discipline should be assessed. The Carrier gave detailed testimony of the actions that should have been taken to be in compliance with the rule. Claimant admitted to using dynamic brakes to control any draft instead of the independent brake as required by rule. Speculation as to possible outcomes if the rule was followed does not negate the fact that the rule was violated. The Board finds no basis to overturn the Carrier's decision.

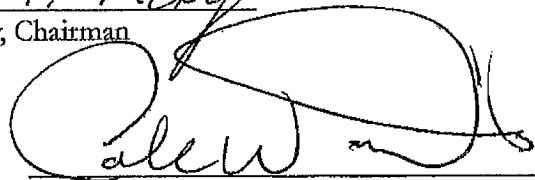
AWARD: Claim denied.



David N. Ray, Chairman



Jennie Nyp, Carrier Member



Cole W. Davis, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO
DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 72
CASE NO. 72
FILE: 2016-0529

STATEMENT OF CLAIM: Claim of KCS Conductor Aubrey Moore for the unwarranted discipline of 2 points assessed to Engineer Moore. The Brotherhood of Locomotive Engineers and Trainman request the removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 1.15 – Duty - reporting or Absence and The Kansas City Southern Railway Company's System Circulars No. 001 - TE&Y Availability Policy.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

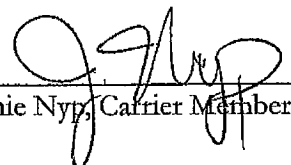
Claimant was employed on September 7, 2004. On July 15, 2016, while working the brakeman's extra board out of Meridian, Mississippi, Claimant was charged with being in violation of Carrier's attendance policy between April 13, 2016 and July 12, 2016. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed two points.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization argues that Claimant was not warned regarding his attendance and there was no excessive pattern of layoffs. During the test period, Claimant marked off eighteen days including seven weekends. Carrier's Policy prohibits frequent personal lay offs as well as frequent weekend layoffs. Claimant had forty nine starts or approximately three days per week. The Board finds no reason to overturn the Carrier's decision.

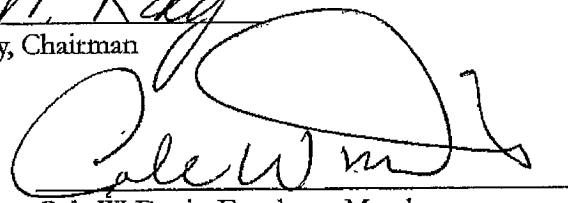
AWARD: Claim denied.



David N. Ray, Chairman



Jennie Nyp, Carrier Member



Cole W. Davis, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 73
CASE NO. 73
FILE: 2016-0792

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

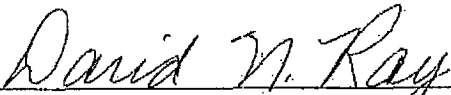
STATEMENT OF CLAIM: Claim of KCS Engineer William Fortenberry for the unwarranted discipline of 30 days Suspension, 5 days actual suspension and 25 days recorded from service. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing, for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 6.31-Maximum Authorized Speed.


FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

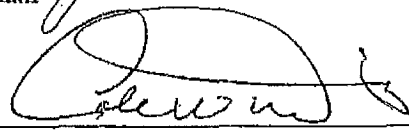
Claimant was employed on November 10, 1989, and subsequently promoted to engineer. On November 21, 2016, Claimant was a student engineer on the L-GP101-21 out of Gulfport, Mississippi. A carrier officer took exception Claimant's train operating 12 miles per hour over authorized speed on the Gulfport Subdivision near milepost 13. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

There is substantial evidence, including Claimant's testimony, to support the charges. The Organization stated Claimant was the only member of the crew disciplined, that he was familiarizing himself with the territory and he immediately took action when the speed limit was called to his attention. The Organization argues that as a student engineer being trained on the territory, he should not have been disciplined. Claimant was operating in a head-end restricted territory of 25 miles per hour and believed he was over the last restricted crossing. Carrier rules require Claimant to be knowledgeable regarding Carrier Timetable rules. The discipline was issued under Carrier's Discipline Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE AWARD NO. 74
 ENGINEERS AND TRAINMEN CASE NO. 74
 TO FILE: 2016-0822

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

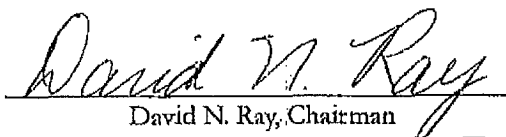
STATEMENT OF CLAIM: Claim of KCS Engineer Matthew Ware for the unwarranted discipline of 30 days Suspension, 5 days actual suspension (December 10, 2016 through December 14, 2016) and 25 days recorded as actual suspension from service in his file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 9.5 - Where Stop Must Be Made; The Kansas City Southern Railway Company's Special Instructions and Instructions for Handling Hazardous Materials; Block Signal Rule 9.1.9 - Stop and The Kansas City Souther Railway Company's Air Brake Systems and Instructions Rule 109.1 - Engineer and Conductor General Responsibilities.

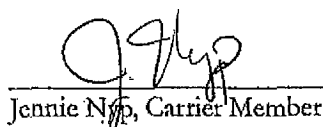
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on February 3, 2003, and subsequently promoted to engineer. On December 9, 2016, Claimant was engineer on the M-NSJA-09 out of Meridian, Mississippi. A carrier officer received an alert that Claimant's train went into emergency. After a review, it was determine that Claimant's train passed a stop signal at West Lake, Mississippi. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

There is substantial evidence indicating Claimant's train passed a stop signal. The Organization stated Claimant could not see the signal because of the reflection of the sun. Claimant's conductor said the signal was clear and Claimant proceeded on that basis, only stopping when he saw the switch lined against him. Carrier advises the crew should have used more caution and stopped before passing the signal. Claimant was relying on his conductor for the signal indication. Substantial evidence was not present to indicate Claimant violated Carrier rules.

AWARD: Claim sustained.


David N. Ray, Chairman


Jennie Noy, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 75
CASE NO. 75
FILE: 2016-0131

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

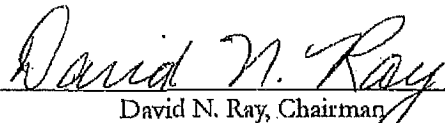
STATEMENT OF CLAIM: Claim of KCS Engineer Reginald Scott for the unwarranted discipline of two points under KCS-MidSouth Availability Policy, assessed to Engineer Scott. This claim is for removal of all notations from his personal work record of discipline assessed for alleged violation of Kansas City Southern Railway's Company's Availability Policy.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on February 3, 2003, and subsequently promoted to engineer. On March 17, 2017, while working as an engineer out of Meridian, Mississippi, Claimant was charged with being in violation of Carrier's attendance policy between December 14, 2016 and March 14, 2017. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed two points.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization argues that Claimant was not warned regarding his attendance and there were medical reasons for the layoffs. The Organization states Claimant had migraines, personal issues related to a divorce, a nine year old daughter and stress as reasons for the mark offs. It is noted that most of Claimant's medical documentation is dated after the test period. Carrier argues Claimant was in violation of the policy. During the test period, Claimant marked off twenty nine times including eight weekends. Carrier's Policy prohibits frequent personal lay offs as well as frequent weekend layoffs. Claimant had 28 starts or approximately two days per week. The Board finds no reason to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

TO

AWARD NO. 76
CASE NO. 76
FILE: 2017-0175

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

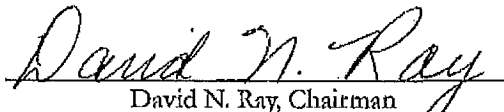
STATEMENT OF CLAIM: Claim of KCS Engineer Joseph Early for the unwarranted discipline of 1 point. This claim is for removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 1.16 - Subject to Call and The Kansas City Southern Railway Company's System Circular No. 001 - TE&Y Availability Policy.

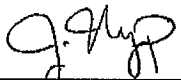
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on June 1, 1998, and subsequently promoted to engineer. On April 7, 2017, while working as the regularly assigned engineer on Pool Block KEO1 out of Kansas City, Missouri, Claimant was called for a 6:30 p.m. assignment and did not respond. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed one point.

The Organization argues that Claimant's assignment was at the away from terminal when he marked up from vacation and he was not subject to call. Carrier states Claimant was properly marked up at the bottom of the Board when he returned from vacation and was therefor subject to call. Substantial evidence was not presented to indicate whether Claimant stood to be called and, if called, whether he had an option not to take the call. After a thorough review of the entire record, the Board finds substantial evidence was not present to indicate Claimant violated Carrier rules.

AWARD: Claim sustained.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

TO

AWARD NO. 77
CASE NO. 77
FILE: 2016-0198

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

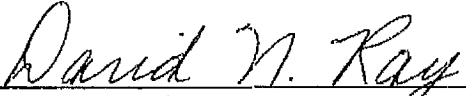
STATEMENT OF CLAIM: Claim of KCS Engineer Rusty Murray for the unwarranted discipline of 30 days Suspension with five (5) actual days being observed (April 27, 2017 through May 1, 2017) and 25 days being recorded. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 6.27 - Movement at Restricted Speed; GCOR Rule 1.1 - Safety, GCOR Rule 1.47 - Duties of Crew Members, GCOR Rule 9.5 - Where Stop Must Be Made and The Kansas City Souther Railway Company's Air Brake Systems and Instructions Rule 109.1 - Engineer and Conductor General Responsibilities.

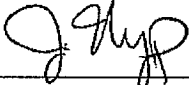
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on April 11, 2011, and subsequently promoted to engineer. On April 26, 2016, Claimant was engineer on the IZATLA-26 out of Bossier City, Louisiana. A carrier officer was advised Claimant's train was occupying the main track without authority at West Century. Claimant's train was observed with three engine past the West Century stop signal. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

There is substantial evidence, including Claimant's testimony, to support the charges. The Organization stated the Dispatcher was complicit in the violation and Claimant should not have been disciplined. Claimant assumed the signal was going to be clear. Claimant was operating at restricted speed and passed a red signal. The discipline was issued under Carrier's Discipline Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

AWARD NO. 78
CASE NO. 78
FILE: 2016-0340

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

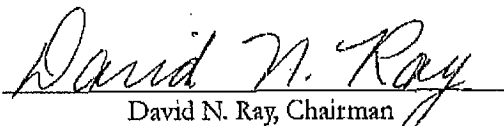
STATEMENT OF CLAIM: Claim of KCS Engineer Timothy Lumpkin for the unwarranted discipline of 30 days Suspension, 5 days actual suspension (5 days to be served as actual time off commencing retroactive from June 22, 2017 continuing through and including June 26, 2017 and twenty-five record suspension - but actual days out of service without pay June 22, 2017 through and including July 21, 2017 unable to work due to unwarranted revocation of Engineer Certification) assessed to KCS-MidSouth Engineer Timothy Lumpkin. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of Kansas City Southern Railway Company's General Code of Operating Rules 9.5 - Where Stop Must Be Made and GCOR 10.1 - Authority to Enter CTC Limits and The Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules and Instructions 109.1-Engineer and Conductor General Responsibilities.

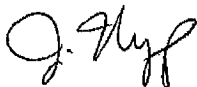
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on September 30, 2002, and subsequently promoted to engineer. On June 21, 2017, Claimant was engineer on the LJA308-21 out of Jackson, Mississippi. Claimant was performing work at Pearson Siding and proceeded east. The crew had a job briefing and realized they passed a red signal at Pearl, Mississippi and were occupying the main track without authority at East Jackson. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

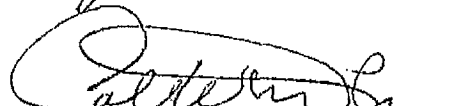
There is substantial evidence to support the charges. The Organization stated there was no proof Claimant passed a red signal and Claimant should not have been disciplined. The engine tapes and testimony indicate Claimant passed a red signal and failed to get authority to occupy the main track. The discipline was issued under Carrier's Discipline Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman



Jennie Nyp, Carrier Member



Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

AWARD NO. 79
CASE NO. 79
FILE: 2016-0330

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

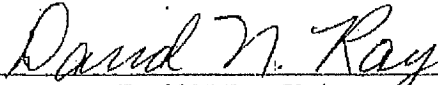
STATEMENT OF CLAIM: Claim of KCS Engineer Rusty Murray for the unwarranted discipline of 60 days Suspension, 30 days actual suspension and 30 days recorded suspension. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's Special Instructions - Item J - Trackside Warning Devices.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on April 11, 2011, and subsequently promoted to engineer. On June 14, 2017, Claimant was the engineer on the MSHNS-13 out of Bossier City, Louisiana. Carrier managers performing rule checks changed the radio frequency of a trackside warning detector at milepost 47.1 (Bee Bayou, Louisiana) so it was not operating on the same channel as the on-board radio to ensure the crews on passing trains would not receive any message from the detector, and would have to follow the required safety protocol. Claimant thought he heard "proceed". The crew attempted a rebroadcast, but there was no response. As a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension, of which thirty days were served.

Substantial evidence support the charges. The Organization posits that Claimant's discipline was not warranted as Claimant heard the clearance to proceed and did so in accordance with the rules. Carrier's Operating Rules required the crew the crew to manually request a rebroadcast and, if one was not received, to follow the safety protocol, including immediately reducing their speed to 30 miles per hour to the next detector. Carrier witnesses testified that the crew could not have heard a clearance and failed to follow the safety protocol after passing the failed detector. The Hearing Officer determines credibility and found Claimant's testimony to be self-serving. The discipline was issued under Carrier's Discipline Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.



David N. Ray, Chairman



Jennie Nyp, Carrier Member



Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO
DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 80
CASE NO. 80
FILE: 2017-0270

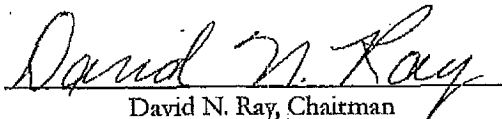
STATEMENT OF CLAIM: Claim of KCS Engineer Kirby Clark for the unwarranted discipline of 30 days Suspension (July 3, 2017 through July 7, 2017) from service. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway's Company's General Code of Operating Rules 1.6 - Conduct and The Kansas City Southern Railways Company's Social Media Policy.

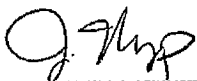
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.


Claimant was employed on October 16, 2000, and subsequently promoted to engineer. Claimant was working as an engineer out of Meridian, Mississippi. Human Resources received seven Speak Up! reports concerning a Facebook post made on May 28, 2017. Claimant's post stated, "Only at KCS do you allow an incompetent manager harass a veteran on Memorial Day Weekend! The Men and women that battled for our country belittled over nothing other than reverse racism, feminism and trying to show authority! This is a great example of what our country has become! This is what ruined our country and companies!!!! To all that I know what I speak and don't agree, make excuses and see how the ride goes!!!! I'm paid up!!!!" The supervisor determined that Claimant's post was in violation of Carrier's rules for professional conduct. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

Substantial evidence support the charges. The Organization posits that Claimant's discipline was not warranted as the post was fraudulently made on Claimant's Facebook page without his knowledge or permission. Claimant's comments can reasonably be considered inappropriate. Taking everything into account, the Board will not disturb the discipline assessed.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.