

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 92
CASE NO. 92
FILE: 2018-0132

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

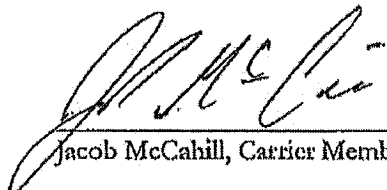
STATEMENT OF CLAIM: Appealing the Carrier's unwarranted dismissal from service assessed to Engineer Jon Heinrich on April 18, 2018, following the formal investigation held on April 13, 2018. Claiming payment for all time lost, immediate reinstatement to service, and all notations removed from his personal work record resulting from his dismissal from service. This claim shall include pay for all time lost, restoration of all Railroad Retirement Credits, including all cost for Health and Welfare benefits, and loss of such benefits during the time of dismissal. This claim also includes the Claimant's return to service, with seniority rights unimpaired, and restoration of all vacation entitlements, personal leave days, and all other employment related benefits that he would have received while in active service.

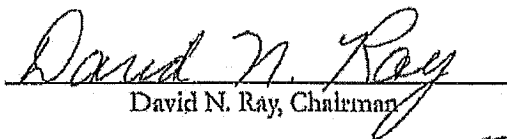
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on November 6, 2006, and subsequently promoted to engineer. On April 2, 2018, while Claimant was working as an engineer on the GHVSR-01 out of Kansas City, Missouri, Carrier was notified that Claimant had a radio transmission that included improper language. As a result, a hearing was held, and based on the evidence, Claimant was dismissed.

Substantial evidence supports the charges. The Organization argues Claimant was improperly held from service and the hearing was scheduled four days after the incident in violation of the contract. Carrier considered the incident serious misconduct and the hearing was held within the time limits. The Organization states Claimant's radio button was stuck resulting in a transmission that was private and under these circumstances charges should not have been filed and Claimant should be compensated for all lost time. It is clear that Claimant was venting, after a trying day with multiple delays and problems, believing his comments were only heard in the engine cab. Based on Claimant's tenure, discipline record and the circumstances present, it is the Board's decision that Claimant be returned to work with seniority unimpaired, but without pay for time lost.

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


Jacob McCahill, Carrier Member


David N. Ray, Chairman


J. Alan Holdcraft, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 93
CASE NO. 93
FILE: 2018-0202

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

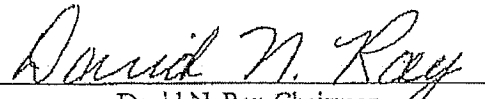
STATEMENT OF CLAIM: Claim of KCS Engineer Donald Anderson for the unwarranted discipline of 30 days suspension of which 5 will be actual suspension from service (May 2, 2018 through May 6, 2018) assessed to Engineer Anderson. This claim is for all compensation lost during suspension and removal of all 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 General Code of Operating Rules 6.31.1 - Maximum Authorized Speed, GCOR Rule 6.31.1 - Permanent Speed Restrictions and The Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules 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 November 9, 1994, and subsequently promoted to engineer. On May 1, 2018, while Claimant was working as an engineer on the LRF-101-01, the Roodhouse Local out of Roodhouse, Illinois, Carrier received an alert indicated Claimant's train exceeded the maximum authorized speed of thirty miles per hour at milepost 251.4 near Pearl, Illinois. A review of the downloads confirmed the crew violated multiple speed restrictions. 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, including Claimant's testimony, supports the charges. The Organization argues Claimant did not understand the speed limit change made on April 24, 2018 applied in both directions. In addition to the multiple speed violations, Claimant's train had a speed restriction of thirty miles per hour at or near Pearl, Illinois. At that location, Claimant's train exceeded the maximum authorized speed by fifteen miles per hour. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

Signed at Estero, Florida on July 19, 2019.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO

AWARD NO. 94
CASE NO. 94
FILE: 2018-0235

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

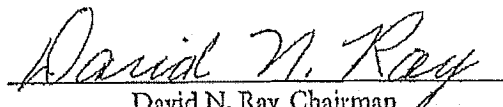
STATEMENT OF CLAIM: Claim of KCS Engineer Joshua Green for the unwarranted discipline of 30 days suspension of which 5 will be actual suspension from service (June 18, 2018 through June 22, 2018) assessed to Engineer Green. This claim is for all compensation lost during suspension and removal of all 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 General Code of Operating Rules 1.47.1 - Cab Focus Communication.


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.

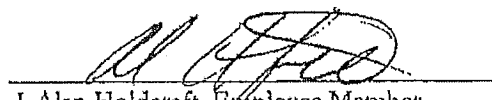
Claimant was employed on August 20, 2012, and subsequently promoted to engineer. On May 9, 2018, Claimant was working as an engineer on the IVNKC-09 out of Joint Agency Yard in Kansas City, Missouri. A Carrier officer heard Claimant on the radio discussing information not directly related to their train operation during a Cab Focus Communication period. 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 supports the charges. The Organization argues there was no proof Claimant was on the radio and proof was not provided indicating a rule violation. Claimant's testimony and the Carrier witnesses testimony were in direct conflict with each other. The Hearing Officer determined the Carrier testimony was more credible than Claimant's. The record indicates that during the Cab Focus Communication period, Claimant was on the radio while the train was moving in violation of Carrier's rule. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
 TO

AWARD NO. 95
CASE NO. 95
FILE: 2018-0415

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

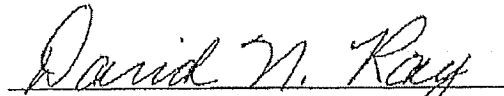
STATEMENT OF CLAIM: Claim of KCS Engineer David Hudgens for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (August 27, 2018 through September 25, 2018) assessed to Engineer Hudgens and 30 days record suspension. This claim is for all compensation lost 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 General Code of Operating Rules 5.8.2 - Sounding Whistle.


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.

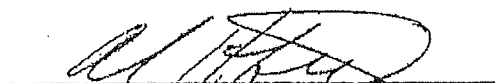
Claimant was employed on December 18, 2006, and subsequently promoted to engineer. On July 25, 2018, Claimant went on duty at Mexico, Missouri to work as an engineer on the GCDMY-25. The crew was cabled to Corder to put together a grain train which was operated to South Blue Valley. A Carrier officer reviewed the crew's event recorder and found Claimant did not sound the whistle at a public road crossing at milepost 443.48 on the Mexico subdivision. 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 supports the charges. The Organization argues the time limits were violated, that proof was lacking that Claimant did not sound the whistle and the evidence presented did not prove Claimant violated any rules. The crew's testimony and the Carrier's witnesses testimony were in direct conflict with each other. The Hearing Officer determined the Carrier testimony was more credible. A review of the documentation indicates time limits were properly applied. The testimony indicates Claimant did not sound the whistle in violation of Carrier's rule. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

Signed at Estero, Florida on July 19, 2019.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 96
CASE NO. 96
FILE: 2018-0362

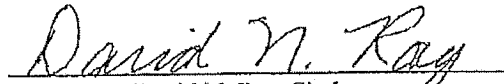
STATEMENT OF CLAIM: Claim of KCS Engineer Gregory Cline for the unwarranted discipline of 2 points assessed to Engineer Cline. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's System Circular No. 001 - Availability Policy for Train, Engine & Yard (TE&Y) Employees.

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.

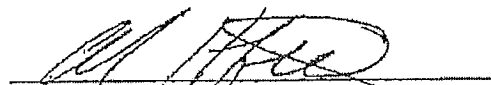
Claimant was employed on November 6, 2006, and subsequently promoted to engineer. On July 3, 2018, Claimant was working the pool at Kansas City, Missouri. Claimant accepted a call for the IKCVN-03 on duty at 9:15 p.m. in Kansas City, Missouri. Claimant advised he was running late and would be ten minutes late for work. Claimant arrived at work at 9:49 p.m. which was twenty two minutes after his two hour call and thirty one minutes after the on duty time of the assignment. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed two points.

Substantial evidence, including Claimant's testimony, supports the charges. The Organization argues Claimant stepped up doing the Carrier a favor, kept the Carrier advised of his situation and the discipline was excessive. Claimant arrived twenty two late for work and was not prepared to perform service. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 97
CASE NO. 97
FILE: 2018-0517

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

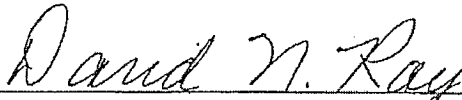
STATEMENT OF CLAIM: Claim of KCS Engineer Kirby Clark for the unwarranted discipline of 30 days suspension of which 5 days actual suspension from service (November 5, 2018 through November, 2018) were served. This claim is for all compensation lost during suspension and removal of all notations from 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 General Code of Operating Rules 6.31.1 - Permanent Speed Restrictions.


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.

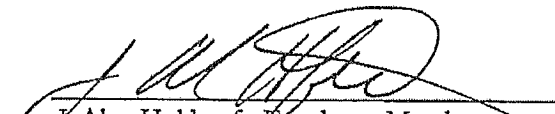
Claimant was employed on October 16, 2000, and subsequently promoted to engineer. On August 29, 2018, Claimant was called off the Meridian Engineers extra list to work as an engineer on the LGP101-29 from Gulfport, Mississippi to Hattisburg, Mississippi and return. Carrier received an alert indicating Claimant's train exceeded the maximum authorized speed of forty miles per hour at milepost 20.40 in Gulfport, Mississippi. A review of the downloads confirmed the crew violated the speed restrictions. 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 supports the charges. The Organization argues Claimant could not check the accuracy of his speedometer since there was no measured mile and no download available from the controlling engine. Claimant's train had a speed restriction of forty miles per hour between milepost 21.6 to milepost 19.5. Claimant's train exceeded the maximum authorized speed by nine miles per hour. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE AWARD NO. 98
 ENGINEERS AND TRAINMEN CASE NO. 98
 TO FILE: 2018-0543

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

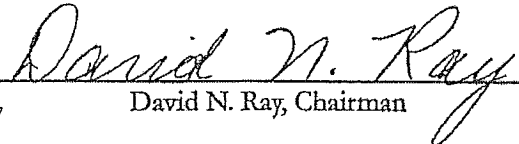
STATEMENT OF CLAIM: Claim of KCS Engineer Reginald Scott for the unwarranted discipline of two (2) points under the Availability Policy for Train, Engine & Yard (TE&Y) Employees, assessed to Engineer Scott. This claim is for removal of all notations from his personal work record of discipline assessed, 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 1.15 - Duty - Reporting or Absence and The Kansas City Southern Railway Company's System Circular No. 001 - Availability Policy for Train, Engine & Yard (TE&Y) Employees.

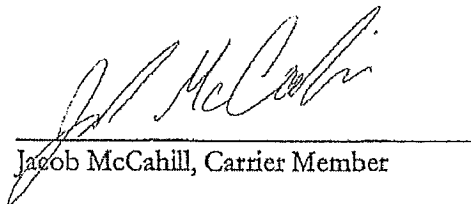
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

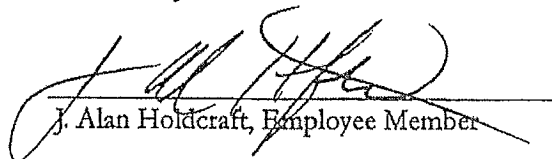
Claimant was employed on October 16, 2000, and subsequently promoted to engineer. On September 21, 2018, while working as an extra engineer out of Meridian, Mississippi, Claimant was charged with being in violation of Carrier's attendance policy between June 14, 2018 and September 12, 2018. As a result, 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 the discipline be reversed and Claimant be paid for time lost. Claimant marked off twenty six days, including six weekends. Claimant advised he was going through a divorce and had health issues as reasons for taking time off. The Carrier has a right to expect regular and reliable attendance from employees, even when other matters seem more important. The Board finds no reason to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 99
CASE NO. 99
FILE: 2018-0619

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

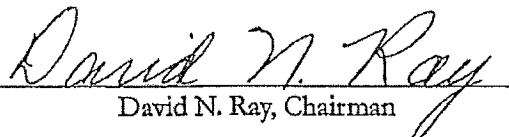
STATEMENT OF CLAIM: Claim of KCS Engineer Loren Boyd for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (December 10, 2018 through January 8, 2019) were served. This claim is for all compensation lost during suspension and removal of all notations from 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 General Code of Operating Rules 6.28 - Movement on Other than Main Track and and GCOR Rule 8.15 - Switches Run Through.

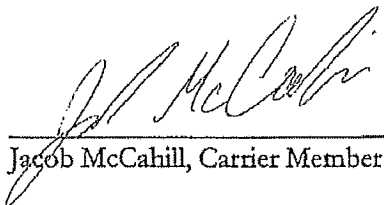
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on June 15, 1994, and subsequently promoted to engineer. On November 8, 2018, Claimant was the engineer on the YES205-08 out of East Saint Louis, Illinois. A Carrier supervisor was advised that Claimant ran through a switch in the Alton Southern Yard. 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, including Claimant's testimony, supports the charges. The Organization argues the visibility was limited and there was no sand resulting in the engine sliding into the switch causing minor gapping to the switch. The Organization states that Claimant was forthright and the discipline was harsh and excessive under the circumstances. Carrier states Claimant is required to stop short of improperly lined switches and should have operated as a speed allowing him to do so. The discipline was issued under Carrier's discipline Policy Matrix. Claimant had a similar violation in July of 2018. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member

Signed at Estero, Florida on July 31, 2019.

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN
TO

AWARD NO. 100
CASE NO. 100
FILE: 2018-0626

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

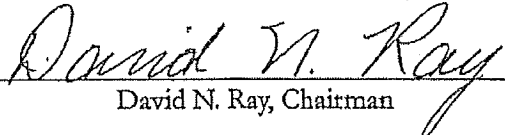
STATEMENT OF CLAIM: Claim of KCS Engineer James Sprott for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (November 16, 2018 through December 15, 2018) were served. This claim is for all compensation lost during suspension and removal of all notations 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 General Code of Operating Rules 6.31.1 - Permanent Speed Restrictions and The Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules and Instructions 109.1 - Engineer and Conductor General Responsibilities.

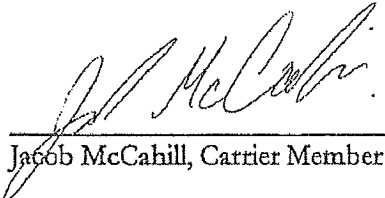
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

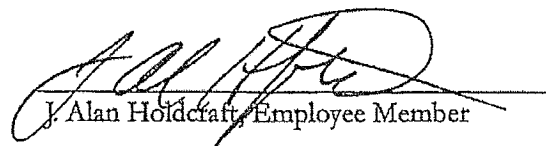
Claimant was employed on September 7, 2010, and subsequently promoted to engineer. On November 15, 2018, Claimant was working as an engineer on the M-SHJA-14 out of Shreveport, Louisiana. Carrier reviewed the engine tapes which indicated Claimant's train exceeded the maximum authorized speed of ten miles per hour at milepost 0.50 in Bovay, Louisiana. 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, including Claimant's testimony, support the charges. The Organization argues Claimant's air brakes were not braking properly and he had to use the dynamic brakes resulting in a delay in getting the speed down. Claimant's train had a speed restriction of ten miles per hour from milepost 0.50 to milepost 0.0 on the Vicksburg Subdivision. Claimant's train exceeded the maximum authorized speed by up to fourteen miles per hour. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jacob McCahill, Carrier Member


J. Alan Holdcraft, Employee Member