

**PUBLIC LAW BOARD 7239**

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

**AWARD NO. 114**  
**CASE NO. 114**  
**FILE: 2019-0688**

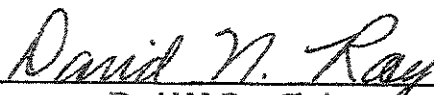
**STATEMENT OF CLAIM:** Appealing the Carrier's unwarranted dismissal from service assessed to Engineer Raymond Caldwell for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on November 4, 2019. This claim shall include all wage equivalents to which he is entitled, 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 Railway for allegedly violation of the KCS Air Brake Systems and Train Handling Rules and Instructions 101.14 - Securing Equipment.

**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 21, 2014, and subsequently promoted to engineer. On October 19, 2019, Claimant was the engineer on the 2MVNKC-19 out of Kansas City, Missouri. A Carrier officer was advised by the Shop Supervisor that a locomotive had been left in the west end of the GE 1 track near Milepost 2.2 in Kansas City, Missouri that was improperly secured. Further investigation revealed the generator field switch in the closed position, the automatic brake handle released and the independent brake handle released. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

Substantial evidence, including Claimant's testimony, support the charges. The Organization states that Claimant was an inexperienced engineer that made a minor error. They add that Claimant was honest and the penalty was harsh and unwarranted. Claimant applied handbrakes on both engines and forgot to reapply the automatic and engine brakes in violation of Carrier rules. The instant violation is not a dismissal offense, but the major rules infraction together with Claimant's discipline record subjected Claimant to dismissal under Carrier's discipline policy. However, under the circumstances, the Board will return Claimant to service, but without pay for time lost.

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

  
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David N. Ray, Chairman

  
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Jacob McCaill, Carrier Member

  
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J. Alan Holdcraft, Employee Member

Signed at Estero, Florida on May 24, 2020.

PUBLIC LAW BOARD 7239

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

AWARD NO. 119  
CASE NO. 119  
FILE: 2019-0818

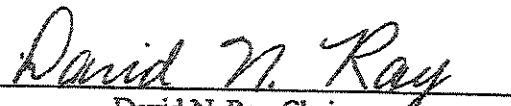
STATEMENT OF CLAIM: Appealing the Carrier's unwarranted dismissal from service assessed to Engineer Daniel Cox for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on January 13, 2020. This claim shall include all wage equivalents to which he is entitled, 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 Railway for allegedly violation of the Drug and Alcohol Free Workplace Policy, which was administered to you on November 26, 2019.

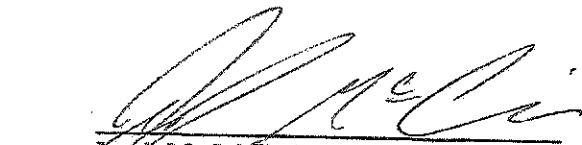
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant is a twenty five year employee working as an engineer out of Kansas City, Missouri. On October 26, 2019 Claimant reported being pulled over for driving under the influence and was self-admitted to the Carrier's referral program for assistance. Claimant was evaluated and given permission to return to work pending a "negative return to duty alcohol/drug test". The return to work drug and alcohol test was administered on November 26, 2019. The results were positive for Fentanyl. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

Substantial evidence support the charges. The Organization argues in view of Claimants years of service, the penalty is harsh and excessive. Claimant tested positive for Fentanyl in his return to work alcohol/drug test in violation of Carrier rules. In addition, Claimant was dishonest when he advised the Carrier's Medical Review Officer he had not used Fentanyl. In the hearing, Claimant testified he used a fentanyl patch without a prescription, but took it off four days prior to the test. In view of Claimant's discipline record and work history, the Board will not alter 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 May 24, 2020.