

**PUBLIC LAW BOARD NO. 7154**

**PARTIES TO THE DISPUTE:**

**Brotherhood of Locomotive Engineers and Trainmen**

**and**

**Canadian National/ Illinois Central Railroad**

**STATEMENT OF CLAIM:**

**Claim of CN/IC Engineer Steven Sandlin 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 February 19, 2016. 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 CN/IC Railroad for alleged violation of USOR V – Altering Railroad Equipment.**

**OPINION OF BOARD:**

At the time of the incident precipitating this claim, February 1, 2016, Engineer Steven Sandlin (Claimant) was assigned as an engineer on assignment DHT059B-01, on UP locomotive UP7972. An inward facing video camera on that locomotive shows that at approximately 1450 hours, Claimant placed adhesive bandages on the camera to obscure the interior of the locomotive cab. The crew following Claimant's crew found and removed the bandages and reported the matter to the Trainmaster. As a consequence, on February 8, 2016, the Carrier sent Claimant a Notice of Investigation, directing him to attend a formal investigation into the following charges:

...to develop the facts and to determine your responsibility, if any, and whether you violated any Company rules, regulations and/or policies, in connection with when you allegedly altered a safety compliance on the UP 7972, at approximately 1450 hours, on Monday, February 1, 2016, while working as engineer on assignment DHT059B-01.

The formal investigation was held on February 15, 2016. In a letter dated February 19, 2016, the Carrier notified Claimant that he had been found guilty as charged and was dismissed from Carrier's service as of that date. The Organization filed a claim on Mr. Sandlin's behalf on March 2, 2016. The Carrier denied that claim in a letter dated April 29, 2016. The matter was subsequently progressed in accordance with the Parties' Agreement, including conference on the property, after which it remained in dispute. It is properly before the Board for resolution.

The Carrier maintains that there can be no doubt, from both testimonial and video evidence on this record that Claimant was guilty of intentionally obscuring the inward-facing camera in the locomotive cab. In addition, Claimant himself admitted to doing so. The Carrier asserts that by his actions, Claimant violated USOR General Rule V – Altering Railroad Equipment. It also points out that there were other, acceptable ways of questioning the presence of the camera, such as querying the Trainmaster, and that his actions directly opposed the rubric of “obey now, grieve later.” Thus, the Carrier insists that the claim be denied in its entirety.

The Organization notes that Claimant had had no experience with rear-facing cameras either on the IC or the CN. It disputes the Carrier's characterization of the camera as “safety equipment”, and notes that at no time did the Carrier advise the Organization that such cameras might be present in non-CN equipment. Moreover, the Organization notes that Claimant was entirely honest regarding his actions and his regret at having engaged in “self-help” in this

matter. It points out that his contrition is unsullied by any amount of arrogance or defense. The Union therefore asks that the claim be sustained in its entirety.

The Board has read the transcript of the formal investigation and reviewed the photographic and documentary evidence with care. We do not condone Claimant's actions by any means, and agree with the Carrier that there were other, acceptable methods for dealing with his expressed intimidation by the inward-facing camera. We do, however, take into account Claimant's utter unfamiliarity with having such a device in his cab, as well as his very genuine acceptance of responsibility and regret for having taken the path he did. In the unique circumstances of this case, and without precedent to future cases of this nature, we find that Claimant should be returned to work, without back pay, but with all other rights and privileges intact.

AWARD

Claim sustained only to the extent set forth in the foregoing Opinion

*Elizabeth C. Wesman*

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Elizabeth C. Wesman, Chairman

*Marcelo Ruel*  
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Organization Member

*John Lopez*  
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Carrier Member

Dated April 17, 2018