

**PUBLIC LAW BOARD 7154**

**PARTIES TO THE DISPUTE:                    BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN**

And

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:**

“Claim of CN/IC Engineer Jonathan Slayden 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 18, 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 CN/IC Railroad for alleged violation of USOR H – Furnishing Information and Conduct.”

**STATEMENT OF THE FACTS:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved on June 21, 1934.

This Public Law Board has jurisdiction over the dispute involved herein. On November 3, 2020, the Carrier conducted an investigation in connection with the Claimant’s alleged

posting of offensive and inappropriate messages/photos on social media. Specifically, the evidence adduced at the investigation established that on September 17 and 30, 2020, the carrier received complaints from anonymous employees regarding alleged offensive and harassing posts the Claimant was making on Facebook. The posts included such things as the use of the “n-word” and a picture of a noose, and how these posts were negatively impacting black employees working for the Carrier.

Consequently, on November 18, 2020, the Carrier notified the Claimant that she was found to be in violation of USOR Rule H and dismissed Claimant from service. After the Organization’s appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

Initially, the Organization’s procedural contentions cannot be sustained because it has failed to establish that the alleged violations prejudiced the Claimant in any way. Any delays were due to the Carrier needing sufficient time to investigate the origins of the complaints received. Furthermore, the inability to confront the anonymous employees who filed the complaints is immaterial, in light of the Claimant admitting to making the offensive posts.

Turning to the merits, the Board concludes that the Carrier presented substantial evidence to support the alleged violation herein. The Claimant admitted to making the posts, which any reasonable person would conclude were offensive and inappropriate, especially given the tumultuous and racially divisive events occurring throughout the nation at that time. The Board is cognizant of employees’ right to free expression on their own time. Nonetheless, the contents of the complaints the Carrier received regarding the posts created a sufficient nexus between Claimant’s off-duty conduct and the workplace to justify disciplinary action. For this same reason, the fact he did not mention the name of his employer in the posts is irrelevant.

Accordingly, the claim is denied.

**AWARD**

Claim denied.



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James M. Darby, Chairman

Marcus Ruef June 3, 2022  
Marcus Ruef, Organization Member

SAKNpil'  
Steve Napierkowski, Carrier Member