

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 Franklin Morris, Jr. for the discipline of 60 days Actual Suspension from service (February 5, 2021 through April 5, 2021) This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, for alleged violation of USOR Rules 503–Handbrake Test and USOR A Safety.”

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 January 22, 2021, the Carrier conducted an investigation in connection with an allegation that the Claimant failed to perform a proper hand brake test on January 6, 2021. Specifically, the evidence adduced at the investigation established that on the day in question Supervisor of Locomotive Engineers Brian Larry Tharpe was conducting audits and observed Claimant and his conductor secure cars on Main 3 at Hawthorne

and saw the crew attempt to perform a securement test. Tharpe then pulled a download to see if it was properly secured. Upon review, he discovered that there was only 40 seconds between the independent and automatic brakes being released and subsequently being set instead of the required minute.

Consequently, on February 5, 2021, the Carrier notified the Claimant that he was found to be in violation of the cited rules and issued him a 60-day actual suspension. After the Organization's appeals were denied by the Carrier, the matter was submitted to this Board for resolution.

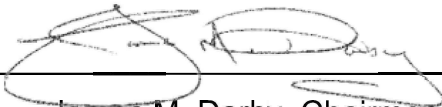
Initially, the Board cannot sustain the Organization's procedural objections, since the record fails to demonstrate that the Claimant was substantially prejudiced by the alleged procedural deficiencies. Furthermore, the Board has carefully reviewed the instant record and concludes there is substantial evidence supporting the charges herein. However, based on the record before us the discipline imposed herein should be modified. While the Carrier's representative testified that both the Claimant and the conductor were jointly responsible for properly performing the handbrake test, the record shows the conductor was not charged. Clearly the Claimant had the greater responsibility here inasmuch as he was the individual performing the improper test. But under these circumstances the Claimant's suspension shall be reduced to 30 days actual and 30 days record suspension.

Accordingly, the claim is sustained in part and denied in part.

AWARD

Claim sustained in part and denied in part.

CASE NO. 328
AWARD NO. 328


James M. Darby, Chairman

Marcus Ruef Dec 20, 2022
Marcus Ruef, Organization Member

SA Napierkowski
Steve Napierkowski, Carrier Member