

REC'D MAY 26 2016

PUBLIC LAW BOARD NO. 7154

BROTHERHOOD OF)	
LOCOMOTIVE ENGINEERS)	
AND TRAINMEN)	
)	CASE NO. 90
vs.)	AWARD NO. 90
)	
CANADIAN NATIONAL/ILLINOIS)	
CENTRAL RAILROAD)	

STATEMENT OF CLAIM:

Claim of CN/IC Engineer Steven Patterson for reinstatement to service with seniority rights unimpaired, with all notations pertaining to discipline assessed on October 20, 2014 expunged from his personal record and that he be compensated for all time lost from the date he was dismissed until the date he resumes service, plus out of pocket expenses for health & welfare and any other benefits which would be provided to him as a CN/IC Engineer in connection with whether or not Engineer Patterson violated any CN rules, regulations and/or policies when he allegedly failed to report for duty at Stevens Point, Wisconsin on Friday, September 5, 2014 as Engineer Trainee.

FINDINGS:

Public Law Board No. 7154, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Claimant, Steven Patterson, had been employed by the Carrier since 2007. On September 9, 2014, the Carrier notified Claimant to attend an investigation to develop the facts and determine his responsibility, if any, in connection with his alleged failure to report for duty at Stevens Point, Wisconsin, on Friday, September 5, 2014 as an Engineer Trainee. Following the investigation, the Carrier found Claimant guilty of the charges, in violation of USOR I—Duty—Reporting or Absence—and dismissed him from service.

Claimant did not appear at the October 8, 2014 hearing. At the opening of the hearing, the Hearing Officer entered into evidence the original Notice of Investigation the Carrier sent to Claimant, along with several postponement notices addressed to him. The Organization representative acknowledged that he had received the notices and added that he had made several unsuccessful attempts to contact Claimant, including on the morning of the investigation.

Carrier Fulton, Kentucky Trainmaster Gregory Beasley testified at the investigation that Claimant was expected to report to Stevens Point, Wisconsin on September 4, 2015 to be marked up the next day. He had volunteered to work as a borrowed out engineer at that location, and, according to Mr. Beasley, had agreed to report on that date.

However, Mr. Beasley explained, there was no evidence that Claimant ever arrived at the Stevens Point hotel to which he had been instructed to report, as the hotel notified the Carrier that Claimant had called to state that he would collect his keys upon arrival on September 5, but, by September 8, 2014, had yet to check into the hotel.

Mr. Beasley added that Claimant's record shows him absent with official leave as of September 5, 2014, but, Mr. Beasley stated, he did leave a voicemail with the Carrier indicating that his son had been in a car accident. However, he did not call back to mark up within 24 hours as required. On September 7, 2015, Claimant called from Green Bay, Wisconsin and stated that his son had passed away. He was laid off bereavement on September 7, 2015, but never produced the death certification required to substantiate such a leave, so the leave was denied.

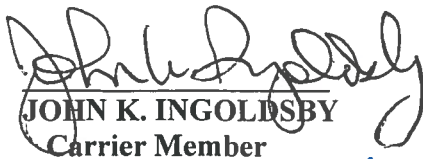
We have carefully reviewed the record in its entirety. First, we find no evidence of any procedural violation which denied Claimant his right to a fair and impartial investigation. On the merits, the Carrier's evidence that Claimant did not appear for his assignment and failed to substantiate his request for bereavement leave is un rebutted. Therefore, his guilt has been proven by substantial evidence. Given the nature of the offense and Claimant's personal record, we see no reason to disturb the penalty deemed appropriate by the Carrier.

AWARD

Claim denied.



JACALYN J. ZIMMERMAN
Neutral Member



JOHN K. INGOLDSBY
Carrier Member



MARCUS RUEF
Organization Member

Dated this *23rd* day of *May*, 2016.