

PUBLIC LAW BOARD 7239

PARTIES · BROTHERHOOD OF LOCOMOTIVE
 ENGINEERS AND TRAINMEN
TO

AWARD NO. 84
CASE NO. 84
FILE: 2017-0426

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

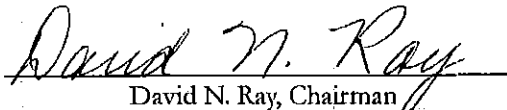
STATEMENT OF CLAIM: Appealing the Carrier's unwarranted dismissal from service assessed to Conductor/Engineer Quentin Pugh on August 16, 2017, following the formal investigation held on August 11, 2017. Claiming payment for all time lost, immediate reinstatement to service, and all notations removed from his personal work record resulting from his dismissal from service. This claim shall include pay for all time lost, restoration of all Railroad Retirement Credits, including all cost for Health and Welfare benefits, and loss of such benefits during the time of dismissal. This claim also includes the Claimant's return to service, with seniority rights unimpaired, and restoration of all vacation entitlements, personal leave days, and all other Employment related benefits, which he would have received while in active service.

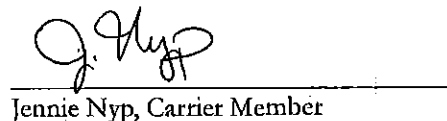
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

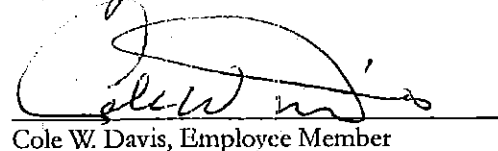
Claimant was employed on February 28, 2011, and subsequently promoted to engineer. Claimant was working as a conductor out of Kansas City, Missouri. On July 31, 2017, Claimant accepted a call at 12:08 a.m. as engineer on the IVNKC-29 on duty in Kansas City, Missouri. Claimant fell back asleep and was late for work. As a result, a hearing was scheduled and based on the evidence, Claimant was dismissed.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization has advanced numerous procedural arguments, which the Board finds are not fatal to the instant case. Claimant was stepped up to work the assignment and, after reporting late, was permitted to work the assignment. Claimant has a history of failing to be available for work. Claimant is subject to dismissal under Carrier's Availability policy. Considering the circumstances in this case including Claimant's attendance and discipline records, the Board will not alter the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 13, 2018.