

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO  
DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 85  
CASE NO. 85  
FILE: 2017-0645

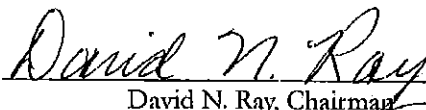
STATEMENT OF CLAIM: Appealing the Carrier's unwarranted dismissal from service assessed to Engineer Jonathan Odom on November 17, 2017. Claiming payment for all time lost, immediate reinstatement to service, and all notations removed from his personal work record resulting from his dismissal from service. 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.

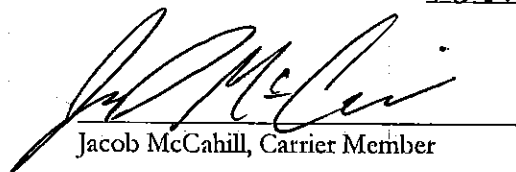
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

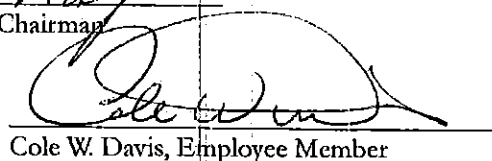
Claimant was employed on October 4, 2004, and subsequently promoted to engineer. On November 8, 2017, Claimant was working as an engineer out of Monroe, Louisiana on the M-JASH. A company official observed locomotive KCS 4624 of Claimant's train, and found two inward facing cameras were blocked. Upon further observation, it was discovered the inward facing cameras had a black trash bag over the camera lens. The video was reviewed and revealed that Claimant placed the bag over the cameras of the trailing unit. The cameras are located in the cab of the locomotive and can be used to observe the actions of crews in the event of a major incident. As a result, a hearing was held, and based on the evidence, Claimant was dismissed.

Substantial evidence supports the charges. Claimant admitted he placed the bag over the cameras while he used the restroom in the second unit and forgot to take it off. The Carrier states Claimant is guilty of the offense and the discipline was warranted in view of the seriousness of the rules violation. Carrier adds that the cameras do not view the bathroom. The Organization argues under these circumstances charges should not have been filed and Claimant should be compensated for all lost time. Based on Claimant's tenure, discipline record and the circumstances present, it is the Board's decision that Claimant be returned to work with seniority unimpaired, but without pay for time lost.

AWARD: Claim sustained, in part, in accordance with Findings.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
Cole W. Davis, Employee Member

Signed at Estero, Florida on December 2, 2018.