

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO

AWARD NO. 94  
CASE NO. 94  
FILE: 2018-0235

DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS Engineer Joshua Green for the unwarranted discipline of 30 days suspension of which 5 will be actual suspension from service (June 18, 2018 through June 22, 2018) assessed to Engineer Green. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 1.47.1 - Cab Focus Communication.

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.

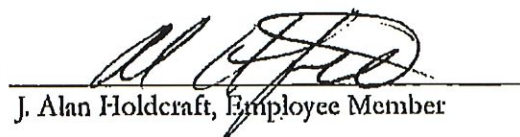
Claimant was employed on August 20, 2012, and subsequently promoted to engineer. On May 9, 2018, Claimant was working as an engineer on the IVNKC-09 out of Joint Agency Yard in Kansas City, Missouri. A Carrier officer heard Claimant on the radio discussing information not directly related to their train operation during a Cab Focus Communication period. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

Substantial evidence supports the charges. The Organization argues there was no proof Claimant was on the radio and proof was not provided indicating a rule violation. Claimant's testimony and the Carrier witnesses testimony were in direct conflict with each other. The Hearing Officer determined the Carrier testimony was more credible than Claimant's. The record indicates that during the Cab Focus Communication period, Claimant was on the radio while the train was moving in violation of Carrier's rule. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member