

**BEFORE  
PUBLIC LAW BOARD NO. 7353  
CASE NO. 64  
AWARD NO. 64**

<b>BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN</b>	)	
	)	<b>PARTIES TO THE</b>
<b>vs.</b>	)	<b>DISPUTE</b>
<b>CSX TRANSPORTATION, INC.</b>	)	

**STATEMENT OF CLAIM:**

*"Claim on behalf of Locomotive Engineer R.E. Crankshaw, ID # 623722, requesting reinstatement to active service with seniority unimpaired, compensation for all lost earnings and to include restoration of all employment related benefits, including Railroad Retirement benefits, vacation and personal leave entitlement, and to have record expunged of all charges relating to the incident made the subject of the hearing held on March 8, 2011."*

**FINDINGS:**

The Board, upon consideration of the entire record and evidence herein, finds that the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated October 16, 2009, as amended, that this Board has jurisdiction over the dispute involved herein, and that the parties were provided due notice of the instant proceedings.

After a thorough review of the record, the Board concludes that on January 4, 2011 the Claimant was going to work as a Locomotive Engineer in the vicinity of Chattanooga, Tennessee. The Claimant stated that he slipped on ice while on Carrier property and injured his back. After reviewing the incident, the Carrier scheduled an investigation in a charge letter dated January 13, 2011. The Claimant was charged with dishonesty in providing a false and misleading statements while under investigation and misrepresenting facts in connection with an injury to his back. After several postponements, the investigation was held on March 8, 2011. On April 1, 2011 the Carrier issued a letter of discipline to the Claimant dismissing him from service for violating the Carriers Operating Rule GR – 2, which involves dishonesty.

During the course of the hearing before this Board, it became evident that the Claimant had chosen to retire from the service of the Carrier the day following his removal from service. Regardless of how well and effectively the Organization prepared its' brief and arguments in this case, and how well they argued it in the hearing before this Board, and they did all of these things very well, it was the actions of the Claimant who effectively hamstrung his own case. It is, therefore, the finding of this Board that this Claimant, in a unique set of circumstances relevant only to this case, through his own voluntary actions, has rendered moot any remedy this Board might otherwise issue.

This Board obtains it's authority from the Collective Bargaining Agreement between the parties, from the Public Law Board Agreement which has created this particular Board and

from the *Railway Labor Act*, which underpins all of these documents. Specifically, the relevant portion of the *Railway Labor Act* reads as follows:

*"§ 157. Arbitration*

*First. Submission of controversy to arbitration*

*Whenever a controversy shall arise between a carrier or carriers and its or their employees which is not settled either in conference between representatives of the parties or by the appropriate adjustment board or through mediation, in the manner provided in sections 151156 of this title such controversy may, by agreement of the parties to such controversy, be submitted to the arbitration of a board of three (or, if the parties to the controversy so stipulate, of six) persons: Provided, however, that the failure or refusal of either party to submit a controversy to arbitration shall not be construed as a violation of any legal obligation imposed upon such party by the terms of this chapter or otherwise."*

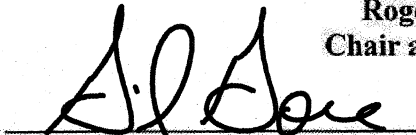
As there is no longer a controversy between the parties, the authority of this Board no longer has a foundation in the *Railway Labor Act*, nor in the agreements, and the claim must be dismissed.

**AWARD**

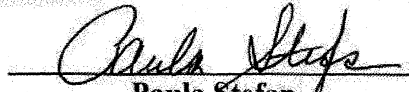
The claim is dismissed.



Roger K. MacDougall  
Chair and Neutral Member



Gil Gore  
Vice-President  
Organization Member



Paula Stefan  
Director Labor Relations  
Carrier Member

Dated: 01/29/2013

At: Chicago, IL