

**BEFORE  
PUBLIC LAW BOARD NO. 7362  
CASE NO.103**

<b>BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN (Western Lines) vs. CSX TRANSPORTATION, INC.</b>	) ) ) ) )	<b>PARTIES TO THE DISPUTE</b>
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**STATEMENT OF CLAIM:**

*“Claim on behalf of Engineer T.R. Johnson (077475) requesting compensation for all time lost during the fifteen (15) day actual suspension, compensation for time lost attending the investigation, with Claimant to be made whole for all benefits and contractual entitlements such as vacation, performance awards and bonuses. This claim also seeks that Engineer Johnson’s record then be cleared of the incident and his standing within the progressive steps of discipline found in the IDPAP be adjusted accordingly.”*

**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 November 19, 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. As specified in the PLB Agreement establishing this Board, this Award shall be limited to one page and shall not establish precedent nor be referred to by the Parties in the future.

After a thorough review of the record, the Board concludes that the Claimant was charged, on August 3, 2011, with failing to ring his locomotive bell while passing and approaching persons on and about the tracks, on July 29, 2011. An investigation was held on August 11, 2011. The Claimant was assessed a 15 day actual suspension on September 9, 2011, for violation of Operating Rules 13 and 14.

The Organization raises a preliminary objection with respect to the discipline based on Rule 14. They say that the original charge letter did not contain allegations related to failing to sound the horn. Instead, they were handed a revised charge letter at the hearing containing that addition, which was beyond the 10-day time limit specified in the CBA. This was objected to during the investigation.


They further say that the Claimant did not see the Carrier Officer until they were passing him. They say the Claimant then rang the bell and sounded the horn.

The Carrier says that the Trainmaster was wearing a high-visibility yellow vest and that the Claimant admitted in testimony that he failed to press the button to activate the horn and bell.

This Board finds that the charges related to sounding the horn were outside the time limits in the CBA, and therefore are stricken from the record. However, this Board finds that the Claimant failed to ring the bell, as charged, and as required by Rule 13. He had an obligation to watch for people beside the track – therefore his failure to see the Trainmaster is no excuse. This Board also finds no reason to interfere with the discipline assessed by the Carrier.

**AWARD**

The Claim is denied.

  
**Roger K. MacDougall**  
**Chair and Neutral Member**

Dated: 6/19/2012

At: Chicago, IL