BEFORE
PUBLIC LAW BOARD NO. 7362
CASE NO.107

BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN (Western Lines)	)	
	)	**PARTIES TO THE**
vs.	)	**DISPUTE**
CSX TRANSPORTATION, INC.	)	

STATEMENT OF CLAIM:
"Claim on behalf of Brakeman J.W. Kephart (224919) requesting compensation for all time lost during the thirty (30) 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, and that all mention of this matter shall be expunged from the Claimant's record."

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 11, 2010, with failing to make a proper safety stop, while working as an RCO Foreman on August 4, 2010. After an agreed-upon postponement, the investigation was held on August 31, 2010. The Claimant was assessed a 30 day actual suspension on September 28, 2010, for violation of CSX Transportation Safe Way Rule TS-16.

The Rule says: "Making a Safety Stop
Stop the movement at least 50 feet but not more that [sp] 250 feet before coupling the equipment. Make certain that:

- Any employee riding the equipment that is not seated in the locomotive dismounts until the coupling is made.
- Couplers are aligned.
- At least one of the knuckles is open."

The Organization says that the locomotive download establishes that a safety stop was made within the 50 to 250 feet before coupling, as required by the Rule in question. They say that the coupling did not work on the first attempt because the car being shoved had not actually reached the car being coupled to. They say that if the couplings were not properly aligned, as the Carrier says, then a second attempt (which was successful) would not have worked either. The Organization says that the Rule is not clear. They say that the Claimant did dismount to perform a visual inspection of the cars earlier, albeit at a greater distance. Then later on, they say, he made the required stop between the 50 – 250 foot range, although admittedly he did not dismount at that time.

The Carrier says that the Rule is clear. Employees must stop within the distance in question, view the couplers at that time (which the Claimant admits he did not do), and then make the coupling.

This Board finds that the plain reading of the contractual language favors the interpretation urged by the Carrier. It would not make sense to stop the movement within the range in question but NOT then check that everything was fine to make the coupling. This, in essence, is what the Organization urges. Simply stopping in the required area but doing nothing further, in the view of this Board, is inconsistent with the plain reading of the Rule. Thus, the Carrier has met the burden of proof.

Given all of the circumstances, this Board sees no reason to interfere with the discipline as assessed.

AWARD

The Claim is denied.

Roger K. MacDougall
Chair and Neutral Member

Dated: 7/10/12

At: Chicago, IL