

BEFORE
PUBLIC LAW BOARD NO. 7362
CASE NO.67

BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND)
TRAINMEN (Western Lines))
vs.)
CSX TRANSPORTATION, INC.)

PARTIES TO THE
DISPUTE

STATEMENT OF CLAIM:

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 it is undisputed that on April 27, 2010, Engineer Hooper was operating a train in reverse, over a turnout, when a wheel set in a car in said train derailed and then re-railed itself. It is also common ground that the cost of the derailment was \$175. The Union admits that the Engineer's handling of the train violated Carrier Rule 5502, causing the derailment. It is therefore uncontested that this was a Serious Offense, as defined in the Carrier's IDPAP, albeit the first one for this Engineer. The IDPAP calls for 5-15 days actual suspension for a first offense, such as this one. The Carrier assessed 10 days actual. The Union submits that the Carrier should have given the employee a "Time Out" option, given the previously clear record of the employee.

In this industry, there are numerous awards which indicate that an arbitrator sits as in appellate review over discipline decisions, and should not disturb those decisions unless they have been arbitrary, harsh or otherwise unreasonable. In all of the circumstances in this case, I see no reason to disturb the discipline assessed.

AWARD

The Claim is denied.



Roger K. MacDougall
Chair and Neutral Member

Dated: July 5, 2011

At: Chicago, IL