

**BEFORE  
PUBLIC LAW BOARD NO. 7362  
CASE NO.98**

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

**STATEMENT OF CLAIM:**

*"Claim on behalf of Conductor M.C. Wartman (376181) requesting compensation for all time lost during the twenty (20) 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 with failing to conduct a proper job briefing with all crew members. After a series of agreed-upon postponements, an investigation was held on April 13, 2011. The Claimant was assessed a 20 day actual suspension on May 10, 2011, for violation of Safe Way Rule GS-2 and SOFA 2.

The Claimant was the Conductor on a train that was standing still in a track when another train made a shove move into his train. This move was done with hand signals, and without immediately prior warning to the Engineer of the Claimant's train. As a result, said Engineer was injured.

The Organization correctly points out that Rule GS-2 relates to drug and alcohol issues. It is GS-3 that relates to Job Briefings. Therefore, they say, the Carrier failed to provide the reason for discipline, as required in the CBA. This Board finds that this was simply a clerical error which can be rectified by this Board. The 200+ page transcript and accompanying documents centered on GS-3. The Notice of Investigation concerned Job Briefings. The rules presented and highlighted in the investigation were GS-3 and SOFA 2. It is clear that GS-2 in the discipline letter is simply a clerical error and the parties clearly knew what the issue at hand involved. Indeed, the on-property appeal from the Organization refers to GS-3 throughout and does not raise the issue of the GS-2 typo. Therefore, since the first time they raise it is after the on-property handling is complete and the record is closed, they cannot place it before this Board for the first time in the Brief. SOFA 2 requires that when two or more crews are simultaneously performing work in the same track, extra precautions must be taken – namely that there must be direct communication with all crew members. It is clear from the transcript that the Engineer who was injured may not have been with the other 3 crew members at all times during the Job Briefing. His own Conductor certainly had a duty to ensure that the Engineer knew he was about to be coupled-into. He failed to do so.

**AWARD**

The Claim is denied.

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

Dated: 6/19/2012

At: Chicago, IL