

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Frank J. Dugan, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA**

**SEABOARD AIR LINE RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Seaboard Air Line Railroad Company:

1. That Messrs. W. A. Lucas and Chas. M. Scott be compensated at their respective straight-time hourly rate of pay, beginning May 27, 1956, for all time lost as a result of being wrongfully suspended on unsustained charges until such time as they are permitted to return to work on their regular bulletin assignment at Mullins, S. C., plus any and all extra and/or overtime work that may be performed on their assigned territory during the period involved.

2. That the personal record of Mr. Lucas and Mr. Scott be cleared of all charges and/or disciplinary action that may be entered on such records as a result of the motor car accident and the investigation of May 18, 1956, as provided for in Rule 49 of the agreement, when charges against an employee are not sustained.

**OPINION OF BOARD:** The basic issue in this dispute is whether Claimants were properly disciplined by the Carrier for violating Operating Rules 751 and 755 which read as follows:

"Rule 751 — 'The foreman, or other employee to whom the car is assigned, is responsible for the inspection, use, operation and care of the car. The foreman will personally operate the car unless he has on the force a man fully qualified to do so.'

"Rule 755 — 'Motor cars will be run at a safe speed at all times and must not exceed speed of 15 M.P.H., or as authorized by the Superintendent. Superintendents may authorize increases in speed of motor cars as local conditions justify, not to exceed a

maximum speed of 30 miles per hour on straight track. Around curves, through towns and cities, and at other points where visibility is restricted or obscured, speed must be reduced sufficiently to permit stopping within half the range of vision.

“When operating cars through towns and villages or when approaching road crossings at grade, the car will be brought under control and no attempt will be made to cross any street or road until it is known to be safe. If necessary the operator will stop the car and wait until it is safe to proceed before crossing.

“Motor cars will run at a speed not in excess of five (5) miles per hour approaching and moving over drawbridges unless signal is given by bridge tender to proceed.”

On May 9, 1956, at approximately 12:30 P. M. W. A. Lucas, Signal Maintainer, and C. M. Scott, an Assistant Maintainer, were in a motor car approaching a crossing at Highway 41 located at Smithboro, S. C. W. A. Lucas was operating the motor car from a rear seat. Scott was a passenger seated up front facing the west. The highway transverses the main track in a general west as to east direction. The motor car was proceeding south. As Lucas approached the crossing he took the car out of gear and reduced his speed to 2 or 3 miles per hour. As Mr. Lucas approached the highway crossing he noticed a car on his left about 244 yards from the crossing. There were no obstructions restricting his vision as to cars coming up to the crossing. Mr. Lucas testified at the investigation concerning the accident that he thought it was not necessary to stop at the intersection; that the automobile speeded up and hit the motor car after it got half way across the crossing; that the automobile came near the middle yellow line of the highway and hit the rear of the motor car causing damage to both vehicles. Mr. Lucas also testified that if the driver of the auto had stayed on his side of the road and with his speed “he (Mr. Lucas) had plenty of time to get across and that is why I went across.”

Mr. Lucas was found guilty of violating Rules 751 and 755. Rule 751 provides that the person to whom the car is assigned shall be responsible for the use of the car. This rule must be interpreted in light of Rule 755. That rule imposes a stringent rule of conduct upon operators of motor cars at crossings. In effect it requires that operators give way to approaching automobiles. Operators must know that the crossing is safe before they attempt to cross and they are required to stop and wait until it is safe to proceed. Under the facts adduced at the hearing to investigate the accident this Board cannot say that the suspension of Mr. Lucas was arbitrary and capricious and thus his claim must be denied.

As to Mr. Scott the Carrier also determined that he violated Operating Rules 751 and 755. Operating Rule 751 plainly has no application to Mr. Scott and hence the Carrier improperly determined that he violated this rule.

Furthermore Operating Rule 755 when read in a reasonable manner was obviously intended to set out rules of conduct for operators of motor cars and operators only. Thus the Carrier also improperly charged Mr. Scott with a violation of this rule.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated as indicated in the Award.

#### AWARD

Claims 1 and 2 as to Mr. W. A. Lucas are denied.

Claims 1 and 2 as to Mr. Chas. M. Scott are sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated as Chicago, Illinois, this 27th day of February 1962.