

PUBLIC LAW BOARD NO. 4338

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

(1) The discipline (30 day suspension) assessed Section Foreman J. F. Lausure for alleged violation of various company rules as indicated in G. D. Altenburg's letter of February 22, 1988, was arbitrary, capricious and unwarranted.

(2) The claimants record shall be cleared of the discipline referred to in Part (1) hereof and he shall be compensated for all time lost.

FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to report to LaGrande, Oregon on February 5, 1988 to attend an investigation to develop the facts and determine his responsibility for an incident which occurred at approximately 8:15 p.m. January 11, 1988 at MP 388.57 Passing Track at Huntington, Oregon.

The claimant was charged with possible violation of General Rule A, D and E of Form 7903 and possible violation of Rules 1862 and 1865 of Maintenance of Way Rules, effective April 5, 1987. Pursuant to the investigation the claimant was found guilty and was assessed thirty days suspension.

T. L. Thompson, Manager of Track Maintenance, La Grande, testified that on December 7, 1987 he instructed all sections to check joint bars for cracks and that further instructions would be following. He testified that on December 10 he instructed every section on his district to check joint bars, hit high spikes, tighten all bolts, and this needed to be done, if at all possible, in a two week period, which includes passes, everything, every piece of track under each individual section.

Mr. Thompson further stated that he also instructed them to drill any missing holes on the end of curves where needed and work on this every day until it was completed. He stated that on December 18, every section advised him that they were completed except for Telocaset who had a mile and a half to go from 514.50 to 516, which Baker Section did for them.

Mr. Thompson testified that the claimant indicated he had completed all his, that he did check all his joint bars. He then stated that he investigated a derailment on the siding at Huntington which occurred on January 11, 1988. He testified that he found a joint, two ties completely missing spikes and plates. He testified the guage was 58, but the approximately 1/4 inch plate movement of the three ties each side the joint, which I believe the wheel dropped through due to wide guage on that three degree curve.

Mr. Thompson testified in detail as to the reasons why he believed this was the cause of the derailment. He stated that the claimant had advised him approximately six months earlier that he had guaged the whole curve. He testified that the wear and tear over a six month period could cause the plates to fall off but could not happen in a two week period. He testified that he saw no evidence that the track had been worked on recently and in his personal opinion, the plates had been off for a while.

The claimant testified at length and stated that he measured the joint and it measured 57 inches. He testified that there was only one plate missing. He stated they had trouble holding gauge in that area and had repeatedly requested more ties for that track. He stated that second hand ties were placed in that location.

The claimant further testified that the wheels climbed the high side of the curve and that he believed the wear on the center plate contributed to the derailment. The claimant admitted in his original testimony that he stated there was no mark on the high side, and that he could find no climb marks on the rail. He stated that he was mistaken, but then when he started picturing it in his mind, he remembered them gauging and pulling the spikes on the high side.


The Board finds that the charges were precise. The claimant and his representative were fully aware of the charge presented against the claimant.


After reviewing all of the evidence, the Board finds that the evidence was sufficient for the Carrier to find that the claimant was guilty as charged.

AWARD: Claim denied.

DATED: May 31, 1988


Preston J. Moore, Chairman


Union Member


Carrier Member