

PUBLIC LAW BOARD NO. 4338

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

STATEMENT OF CLAIM: That the discipline (dismissal) imposed on Wyoming Division Track Inspector J. M. Lucero for alleged violation of General Rules A, B and L was arbitrary, capricious and unwarranted and should be removed. That claimant's record be cleared of the discipline referred to and he be paid 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 attend an investigation on February 27, 1987 to develop the facts and determine responsibility for his alleged failure to perform inspections and to keep records in accordance with the requirements of the Carrier and the Federal Railroad Administration as required by his assignment as Track Inspector between June 1, 1986 and November 10, 1986.

The Union contends that the Carrier violated the time limits. The evidence indicates that charges were filed within 30 days of the Carrier's knowledge of the discrepancies in the inspection records. The Board finds there is no violation of the time limits.

The Union also contends that the letter of charges is not precise, but under the circumstances herein the Board finds that the charges are as precise as possible.

The evidence indicates that the Federal Railroad Administration Inspector contacted the Carrier through Roadmaster R. E. Loftin on January 29, 1987 and advised him that he was missing reports in the Division Headquarters. The missing reports covered dates from June 10, 1986 to July 12, 1986.

The Federal Railroad Administration Inspector was checking with the Roadmaster to determine if he had inspections on the dates involved. The Roadmaster had those inspections. Although the records were not on file in the Cheyenne Office, the Inspector agreed to stop by the Rawlins Office.

The testimony indicates the Inspector discovered that the carbon copies in that office had been written over with a pen. The

Inspector concluded that the dates on the copies on file at the Rawlins Office did not match the dates on file in the office at Cheyenne.

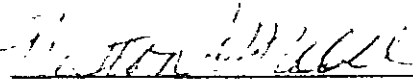
Roadmaster Loftin testified that he spoke with the claimant the following day and the claimant stated he had altered the reports but had failed to tell Mr. Loftin about the change.

In his testimony the claimant denied any knowledge of the missing reports at Laramie. He stated that he didn't know if they got lost in the mail or what. He stated that he did not keep copies. He testified that he ran to the files to check his reports and found a stack of reports that were all piled up and didn't make much sense to him. He stated he had different dates on some of them, and the originals had already been sent off, and he changed the dates on the carbon copies to match his inspection dates which he believed were two original dates like for August, and he thought he changed the date to July. In other words, he changed the carbon copies but did not change the originals. He stated that he intended to talk to Roadmaster Loftin about what he had done but he forgot to tell Mr. Loftin.

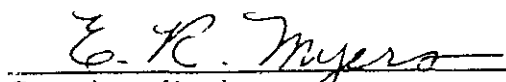
The Board recognizes that the Union has raised one or two other objections, but these need not be addressed by the Board since they are not supported by the evidence.

After reviewing all of the evidence of record, the Board finds there is no justification for setting the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

  
Carrier Member

Dated: November 10, 1987