

PUBLIC LAW BOARD NO. 4767

AWARD NO. 10

CSX TRANSPORTATION INC.

VS.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

STATEMENT OF CLAIM: Claim of Engineer R. E. Holcombe, Jr. for actual wages lost attending investigation October 20, 1986 (in the amount of \$123.23) in Greenville, SC and removal of thirty demerits from personal record.

STATEMENT OF FACTS: On September 27, 1986, Engineer R. E. Holcombe, Jr. (hereinafter claimant) was a member of a (three man) crew assigned to a wrecker train (Extra 6359) detailed to remove (handle) damaged cars that had been involved in a previous derailment at Waterloo, South Carolina. During such assignment, claimant's train stopped on a descending grade, above the yard, near Laurens, South Carolina. Engineer Holcombe then set the brake while the conductor (J. Stokes) and trainman (R. Douglas) chocked and tied down seven loads and five empties, before disconnecting the cut.

Thereafter claimant's train proceeded to Laurens Yard to pick up additional cars and service out the wrecker. However, before such activities were completed the (standing) cut of twelve cars broke loose, rolled down the hill, collided with other cars in claimant's train and caused a derailment.

As a result of this incident on October 1, 1986, Division Manager G. M. McNeill noticed each crew member to attend an investigation to "develop the facts and place responsibility, if any, in connection with derailment..." At the outset of such investigation, and throughout the proceedings, the organization's representative raised procedural objections, each of which was (unsuccessfully) argued to fatally flaw the investigation. On December 8, 1986, following his review of the evidence, Division Manager McNeill published his findings, stating in pertinent part as follows:

* * * *

"The Investigation developed that Claimant was well aware of the grade conditions at the point where he left the twelve cars, that he was aware that the hand brakes and air brakes were not working on all of the cars and he did not caution his Conductor concerning these conditions. Had he done so, his caution could have prevented this accident.

Operating Rule 106 places the responsibility for the safety of the train on the Engineer as well as the Conductor. Due to Claimant's good record, leniency was shown and he was only assessed thirty (30) demerits for violation of Operating Rule 106. Considering the amount of damage done to the Florence Wrecker and other equipment involved in this occurrence, I feel that the discipline assessed was not unduly harsh."

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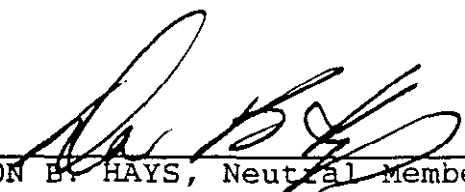
Such decision was unsuccessfully appealed and the dispute was thereafter processed to this Board for final resolution.

FINDINGS: Under the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this Board is duly constituted by agreement and has jurisdiction of the parties and subject matter.

We have reviewed in detail the evidence of record (transcript) and find that the evidence relied on by the organization is insufficient to compel a summary dismissal of these charges based on the alleged procedural flaws. The record indicates that the carrier substantially complied with the procedural requisites to provide adequate notice and conducted a fair and impartial investigation.

There being no material dispute regarding the facts, our responsibility focuses on the justness of the discipline under the circumstances involved. Although carrier's Operating Rule 106 places equal responsibility for the train on the engineer and conductor, there is insufficient credible evidence to compel a finding of wrongdoing by the claimant. From his position as engineer claimant did essentially all that was reasonably required to insure the safety and immobility of the twelve cars. There is nothing in the record to indicate that Conductor Stokes or Trainman Douglas would have acted differently if claimant (verbally) had reinforced the obvious (the cars were parked on a descending grade).

AWARD: Claim sustained. Carrier is directed to implement this award within 30 days of the effective date hereof.


DON B. HAYS, Neutral Member


A.B. MONTGOMERY, Carrier Member


E.L. HAYDEN, Organization Member

March 29, 1995
DATE