

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)

vs.)

UNION PACIFIC RAILROAD COMPANY)

) Parties to Dispute

STATEMENT OF CLAIM:

Claim of Hostler L. Carde for removal of five (5) days suspension from service record and compensation for all time lost as a result of the investigation held on the following charge:

"Your responsibility for your failure to properly perform your duties resulting in collision and damage to CNW Units 6654 and 8512 at approximately 0630 hours, September 1, 1992 at Proviso Diesel Ramp and your violation of Federal Regulation 49 CFR Part 240.117(e) while you were employed as relay engineer on YPR H52 commencing duty at 2300 hours, August 31, 1992."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that the Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant worked a one-man hostler relay assignment at Proviso on August 31, 1992. On that date he was instructed to take an engine from the Diesel Ramp to the Hump Yard and while doing so was

involved in a collision with another unit fouling the route. This accident caused damages of about One Hundred Fifty (\$150.00) Dollars to the locomotives.

Following a disciplinary investigation, Claimant was found at fault and disciplined with five (5) days actual suspension.

The Board has reviewed the record in this case and we conclude that the claim should be allowed. Claimant moved the engine by himself, with no ground crew, and with the long hood forward which restricted his vision. The transcript indicates that the supervision was aware of what was occurring and allowed an unsafe movement to proceed. In this circumstance it is unfair to pin the matter entirely on Claimant.

AWARD

Claim is sustained.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. D. MacArthur
Employee Member

R. J. Gonzalez
Carrier Member

J. Delly
Chairman and Neutral Member

Dated: 12-30-97