

Award No. 512  
Case No. 512

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS )  
 )  
 vs. ) Parties to Dispute  
 )  
 UNION PACIFIC RAILROAD COMPANY )

STATEMENT OF CLAIM:

Claim in behalf of Fireman M. Madonia, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility in connection with your being quarrelsome and your making threats to General Foreman M. Haskins at approximately 7:00 a.m. on July 14, 1984, at the Proviso Diesel Ramp."

## 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 Fireman was disciplined with fifteen (15) days suspension when found responsible for being quarrelsome and making threats to a General Foreman.

Timely objection was made by the Employees that the claim should be allowed since the investigation was not held in

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accordance with Rule 41 (INVESTIGATION AND DISCIPLINE) reading  
in part as follows:

"Investigation shall ordinarily  
be held within three (3) days."

The Board finds the position of the Employees to be correct  
as the investigation was held on the sixth (6th) day following the  
incident and no valid reason was stated for going beyond three (3)  
days. The mere assertion that the "investigation was held within  
the latitude of Rule 41" is insufficient.

Decision is made on procedural grounds alone without any  
relationship to merit.

AWARD

Claim is sustained as indicated above.

ORDER

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

B. L. MacArthur  
Employee Member

W. J. Gmelin  
Carrier Member

W. J. Kelly  
Chairman and Neutral Member

Dated: Feb 20, 1998