

PUBLIC LAW BOARD NO. 5383

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

STATEMENT OF CLAIM:

Claim in behalf of Engineer M. Pawluk, 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 for your failure to properly protect your assignment of SLSEV on duty 4:00 P.M., July 20, 1984 at Proviso when employed as an engineer."

## 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 Engineer was called to report at 4:00 a.m. for an assignment. He arrived twenty-nine (29) minutes late, was charged with failure to properly protect, investigation was held and he was found responsible. The discipline assessed was fifteen (15) days suspension which activated five (5) days deferred suspension he was carrying.

The record indicates Claimant notified supervision at 3:55 a.m. that he would be a few minutes late due to car trouble.

He testified that he was on the property at 4:15 a.m. but could not get to his engines until 4:29 a.m. because he was blocked by a train.

The Board does not find a defect due to the absence of the Caller at the investigation, as contended by the Employees. Accepting Claimant's statements at face value, there was a violation of Rule 702 nevertheless.

The record does not indicate that Claimant had prior marks against him other than five (5) days deferred suspension referred to above. Because of this, and the fact that he was attempting to keep supervision advised of his location, the Board finds that fifteen (15) days suspension was excessive. It will be reduced to five (5) days.

AWARD

The suspension is reduced from fifteen (15) to five (5) days. Balance of claim is denied.

ORDER

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

B. A. Inman  
Employee Member

D. G. Langdon  
Carrier Member

S. D. Kelly  
Chairman and Neutral Member

Dated: Feb 20, 1958