

Award No. 558
Case No. 558

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 L. M. Engh, 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 she was investigated on the following charge:

"Your responsibility in connection with the personal injury you sustained at Roseport, Minnesota, at approximately 7:00 a.m., December 2, 1994 while employed as Engineer on WSS89 on duty at South St. Paul at 0230 on December 2, 1994."

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 found responsible in connection with a personal injury sustained by herself. She was disciplined with five (5) days suspension.

The essential facts are that Claimant slipped and fell on ice while placing her travel baggage in a cab. She was taken to a hospital where she was examined and treated for a sore lower back.

At the investigation there was considerable discussion of the usage of cleats during icy conditions and the lack of such equipment in a size that would fit Claimant.

A similar case was handled in NRAB Award 24210 (BLE v. C&NW). In that case a personal injury was also involved and the Board held, in part, as follows:

"Since the effective date of the Discipline Policy, Claimant had received two Letters of Review, which are not considered discipline, but had not received a Letter of Warning. Thus, he had not been put on notice that he was subject to

the discipline system, as provided in paragraph (a) above. Furthermore, we cannot find that Claimant's conduct meets the standards set forth in paragraph (b), which would permit the Carrier to assess a five day suspension upon an employee who had not already received a Letter of Warning. While his conduct may have been negligent, it was not of such a serious nature that it would warrant discipline under this provision."

Previous decisions should be followed unless they are palpably erroneous. This one is not. We adopt its findings here and sustain the instant claim.

AWARD

Claim is sustained.

ORDER

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

B. L. MacArthur
Employee Member

R. J. Gonzalez
Carrier Member

J. Keely
Chairman and Neutral Member

Dated: 3-20-98