

1990

PUBLIC LAW BOARD NO. 5383

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

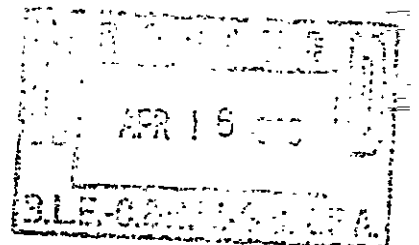
STATEMENT OF CLAIM:

Claim of Engineer T. H. Frame, Central Division, Twin Cities District, for payment in full for all time lost, forty-five (45) days removal of all notation in regard to this discipline from Claimant's service record. Engineer Frame was investigated on October 9, 1981 on the following charge:

"Your responsibility in connection with excessive delay to your train at Owatonna, Minnesota on September 30, 1981 while employed as crew member on Extra 6877 North, #164 ordered at 11:15 P.M. on September 29, 1981 at Manly, Iowa."

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 excessive delay to his train at an intermediate point where crew took lunch. The discipline assessed was forty-five (45) days suspension.

The transcript of investigation shows that the crew was instructed to take meal period at Owatonna, MN, a point that was not a preferred location. A trainmaster was conducting a survey here and he recorded in detail every move made by the crew. He testified that the crew did not take an excessive period from engine to eating facility to engine, but in the moves and manipulations required to leave the train unattended, etc., he felt the time consumed was too much.

The Board is concerned only with the guilt or innocence of the Engineer as claims on behalf of the other crew members are not before us. We find that the record does not clearly establish that Claimant performed other than as required and as directed by others. To get the train in condition to deboard (tr.,p.24) the work consisted of "pulling down, clearing

a crossing, making a cut on one crossing and bringing the power back to the siding....". The conductor had tried to contact the dispatcher as required and some time was consumed here. Claimant also attempted to contact the dispatcher. The record does not show that the Engineer deliberately dawdled, moved too slowly or otherwise interfered with the normal progress of his train.

The discipline administered to Claimant Engineer must be set aside for reasons stated above.

AWARD

Claim is sustained.

ORDER

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

B. H. Inman Arthur
Employee Member

H. J. Bonar
Carrier Member

H. J. Bonar
Chairman and Neutral Member

Dated: 4-24-98