

Award No. 596  
Case No. 596

**PUBLIC LAW BOARD NO. 5383**

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

**STATEMENT OF CLAIM:**

Claim in behalf of Hostler P. E. Johnson, Union Pacific 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 failure to perform your duties in a safe manner when you failed to separate locomotives CNW 5086 and CNW 6916 not less than 20 feet before going between to make a coupler adjustment at approximately 12:18 A.M., April 26, 1985, while employed as Hostler at Clinton, 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 Hostler was found responsible for a safety rule violation when he did not separate locomotives by not less than twenty (20) feet before making a coupler adjustment. He was disciplined with twenty (20) days actual suspension.

It is established in the record that Claimant did violate the safety rule as the separation was less than required by the rules. The difficulty with assessing discipline in this case, however, is that a supervisory employee was at the location at the time the coupler was adjusted. He had the opportunity to intervene but did not do so. In this circumstance the claim has merit.

**AWARD**

Claim is sustained.

**ORDER**

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

B. W. Lane Arthur  
Employee Member

W. G. Bengala  
Carrier Member

H. Kelly  
Chairman and Neutral Member

Dated: 5-22-58