

Case No. 54
Award No. 54

STATEMENT OF CLAIM

FINDINGS

Claimant was suspended for 90 days after an investigation held on July 8, 1997. After the investigation the Carrier determined that Claimant violated Rule 34 which reads:

The facts ascertained at the investigation revealed that Claimant was the engineer of Train D799-21 on June 21, 1997. At approximately 3:30 p.m. the train derailed its last five cars. At the time of the derailment the Claimant was operating at a speed of 19 mph. The record reveals that the consist of the train included a high cube car. The Carrier rules require such a train to

maintain a speed of at least 22 mph. However, if unable to do so, the train must be operated at no more than 14 mph.

The Organization argues that Claimant was improperly withheld from service pending the investigation. It also argues that the Carrier was unduly harsh. The Claimant is an employee with 33 years experience in the transportation department with 22 years as an engineer. Until this incident Claimant's personal record is void of any disciplinary action in those 35 years.

The Carrier argues it proved a violation of Rule 34 and that the discipline imposed was appropriate.

First the Organization is correct that the Carrier improperly removed the Claimant from service pending the investigation.

Second, the Carrier proved the Claimant violated Rule 34, and that the hearing was fair and impartial.

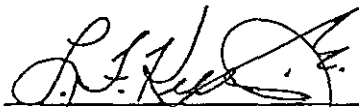
Accordingly, the Carrier is to reimburse the Claimant for all time lost from the date removed from service until the date of the disciplinary letter. As to the harshness of the discipline imposed, a 90 day suspension for a first offense in 35 years, the Organization's position is well taken. The discipline will be reduced to the time lost from the date of the disciplinary letter until the completion of the 90 day period. The record before the Board is void of the above dates.

AWARD

Claim sustained in accordance with the findings. Carrier is ordered to comply with this Award within 30 days of its date.

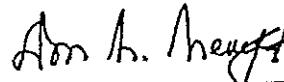


R. G. Richter, Chairman
Neutral Member



L. F. Kell, Jr.
Carrier Member

Dissenting



D. M. Menefee
Employee Member

Dated 7/8/98