

PUBLIC LAW BOARD NO. 5959

Case No. 58
Award No. 58

Brotherhood of Locomotive Engineers)
)
 vs) PARTIES TO DISPUTE
)
 CSX Transportation, Inc.)

STATEMENT OF CLAIM

Claim on behalf of Engineers M. A. Crouch, ID 176838, and M. L. Campbell, ID 179398, for reimbursement of all earnings and benefits lost including all earnings lost as a result of the ten (10) days actual suspension following investigation held on November 14, 1996.

FINDINGS

This Board finds the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction over the dispute involved herein. The parties to said dispute were given due and proper notice of hearing thereon.

Claimants were suspended by the Carrier for 10 days after an investigation which was held on November 14, 1996.


The facts brought out at the investigation show that on November 8, 1996 Claimant Crouch was called for work train service on the Baltimore subdivision. Because of not being qualified over the territory Engineer Campbell was called as an engineer pilot. At approximately 10:00 a.m. while Engineer Campbell was operating the train the Material Handling Machine which was in a gondola car struck a bridge at Mt. Winans.

A review of transcript reveals that the Claimants did not receive a fair and impartial hearing. The hearing officer failed to have any of the employees involved in the incident testify, not the Claimants nor the conductor, the machine operator or the maintenance of way employee who was riding the locomotive.

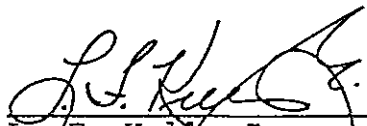
While it is true that an accident did occur, and probably someone was at fault, that cannot be determined from the transcript.

AWARD

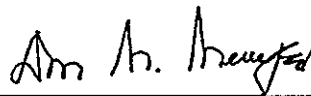
Claim sustained. Carrier is ordered to comply with this Award within 30 days of its date.



R. G. Richter, Chairman
Neutral Member



L. F. Kelly, Jr.
Carrier Member



D. M. Menefee
Employee Member

Dated 7/8/98