

PUBLIC LAW BOARD NO. 5959

Case No. 8
Award No. 8

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

STATEMENT OF CLAIM

Claim on behalf of Engineer R.D. Sorg, ID 519721, for reimbursement of all earnings and benefits lost, including all earnings lost account attending investigation and service record cleared of all charges resulting from investigation held February 3, 1994.

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.

Claimant was assessed a 10 day overhead suspension for failing to operate Helper B256-23 in compliance with item 36 of Superintendent Bulletin No. 201.

A review of the transcript of the February 3, 1994 investigation reveals the claimant sustained personal injury while in Helper Service on November 23, 1993. The injury occurred while the claimant was helping Train Q219\23 through Schenley Tunnel. While shoving Train Q219\23, the slack ran in on the helper engine causing claimant to be tossed about the engine.

The Organization takes the position that the claimant did not receive a fair and impartial hearing because the crew of Train Q219\23 was not present or required to testify at the investigation.

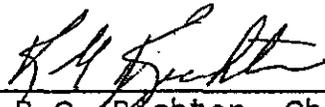
The Carrier is required to make present all those who may have knowledge of the incident being investigated. This principle has long been established by numerous tribunals. The testimony of the crew of Train Q219\23 may have had an explanation as to the severe run in of the slack. This will not be known because of their absence at the investigation.

The claimant did not receive a fair and impartial hearing.

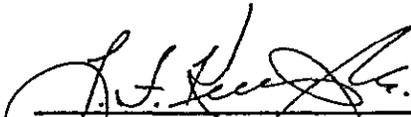
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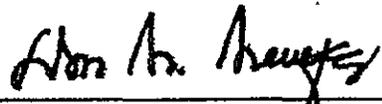
Claim sustained. The Carrier is ordered to comply with this Award within 30 days of its date.



R.G. Richter, Chairman



L.F. Kell, Jr.
Carrier Member



D.M. Menefee
Employee Member

Dated 3-18-97