

PUBLIC LAW BOARD NO. 5997

PARTIES TO DISPUTE:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)

VS )

UNION PACIFIC RAILROAD COMPANY )

NMB CASE NO. 29

AWARD NO. 29

STATEMENT OF CLAIM:

Claim of Engineer L. R. Hallstrom of Council Bluffs, Iowa, for reinstatement, pay for all time lost and removal of Level 4 Discipline from his record.

FINDINGS AND OPINION

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended. This Board has jurisdiction of the dispute here involved. The parties to this dispute were given due notice of hearing thereon.

Claimant was summoned to a formal investigation, held on June 2, 1999, on a charge that he allegedly failed to follow instructions to report to the office of MTO Nettles in Council Bluffs, Iowa, on May 15, 1999, to discuss possible safety problems with a contract van driver. Following the investigation Carrier found claimant guilty of the charge and assessed Level 2 discipline which was then raised to Level 4 under the progressive features of the UPGRADE Discipline Policy.

There is no dispute over the basic facts in this case. Claimant, after having completed a 12 hour tour of duty, reported to Mr. Nettles about the unsafe driving of the contract van which delivered him to the office at Council Bluffs. Claimant clearly stated to Mr. Nettles that the van driver was driving too fast and in an unsafe manner. Mr. Nettles apparently was not satisfied with this report of unsafe conditions and asked claimant to come back into his office. Claimant stated he did not have other information; i.e., he did not know the name of the van driver or the number of the van. When claimant failed to return to Mr. Nettles office, charges were then brought against him and led to the discipline here involved.

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The Board has closely examined all information presented and it is our finding that Carrier, instead of acting on the report of an unsafe van driver, elected instead to discipline the employee who made the report. The Board does not believe this was the proper course to follow. Safety is of utmost importance in the Railroad Industry and the report of unsafe conditions should have been properly investigated. Claimant had properly made his report to Mr. Nettles and it is the opinion of this Board, after having reviewed the evidence, that such report contained sufficient information to justify a review of this matter with the van driver.


It is the finding of this Board that claimant acted properly when he made his report of unsafe conditions and the resultant discipline was totally unwarranted.

AWARD

Claim sustained. Carrier is instructed to comply with this award within thirty days of the date hereof.

  
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F. H. Lynch, Neutral Chairman

  
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J. E. Nash, Carrier Member

  
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Dale McPherson, Employee Member

Award date 4-12-2000