

PUBLIC LAW BOARD NO. 5997

PARTIES TO DISPUTE:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)

VS )

UNION PACIFIC RAILROAD COMPANY )

NMB CASE NO. 30

AWARD NO. 30

STATEMENT OF CLAIM:

Claim of Engineer J. W. Anslover of Salina, KS, for all time lost and removal of Level 1 Discipline from 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.

Claimant was summoned for formal investigation on a charge he failed to avoid objects and obstructions in the vicinity of MP 228.75 on June 14, 1999, and that he failed to perform a proper job briefing.


This Board has reviewed the transcript of hearing and are unable to find therein any evidence that claimant was at fault when he was injured on June 14, in addition to which it is found no effort was made during the investigation to address the charge that claimant failed to perform a proper job briefing.

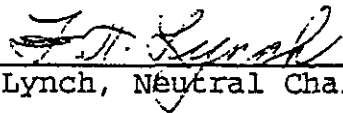
In situations such as that here involved the burden is on the Carrier to prove with substantial evidence that claimant was at fault. Carrier has failed to provide such evidence in this case, therefore, the imposition of discipline cannot be upheld.

AWARD

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

  
J. E. Nash, Carrier Member

  
Dale McPherson, Employee Member

  
F. T. Lynch, Neutral Chairman

Award date 4-12-2000