

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6198**

**JOHN C. FLETCHER, CHAIRMAN & NEUTRAL MEMBER
A. C. HALBERG, CARRIER MEMBER
D. E. THOMPSON, ORGANIZATION MEMBER**

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS
SLSW, GENERAL COMMITTEE**

and

**UNION PACIFIC RAILROAD COMPANY
(FORMER ST. LOUIS SOUTHWESTERN RY. CO.)**

**Award No. 4
Case No. 4**

*Date of Hearing - March 31, 1999
Date of Award May 24, 1999*

Statement of Claim:

Claim of Engineer H. A. Blus to expunge from personal record discipline letter of March 30, 1998, and to be paid for all time lost resulting from investigation and suspension.

FINDINGS:

Public Law Board No. 6198, upon the whole record and all of the evidence, finds and holds that the Employee(s) and the Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute(s) herein; and, that the parties to the dispute(s) were given due notice of the hearing thereon and did participate therein.

On March 2, 1998, the herein Claimant, Engineer H. A. Blus was operating a train over the BNSF Panhandle, between Dalhart to Amarillo, and when in a siding at Tascosa, Texas, realized that the track bulletins and warrants that he had, authorizing the movement, were addressed to Engine UP 1996, an engine that was not in his consist. Claimant immediately reported the error to the BNSF Dispatcher. On March 4, 1998, Claimant was cited to attend an investigation on a charge that he had operated a train from "Dalhart TX, to Tascosa, TX, on the Panhandle Subdivision, with warrants and bulletins addressed to the UP 1996 while operating the UP 1966." Following that investigation, Claimant was assessed a 30-Day suspension. That suspension has been appealed to this Board on a variety of grounds, both procedural and substantive.

There is no question that Claimant did indeed operate his train between Dalhart, Texas and Tascosa, Texas with bulletins and warrants issued to an engine that was not in his consist. There simply is no excuse for such inattention to duty. Often times it is inattention to little things, trivial things that cause serious accidents. That is why employees need to be constantly reminded that failure to attend to such matters will result in discipline.

Accordingly, in this matter the Board concludes that discipline was warranted, even though the matter may be characterized as something as minor as a miss recorded engine number on track bulletins and warrants, and may well have gone undetected if it had not been reported by the crew. The Board is concerned, though, about the level of discipline imposed in this matter. The incident only came to light because the crew notified the Dispatcher of the error when it became known. Crews have an obligation to report such discrepancies, and, indeed are encouraged to do so. But, in this instance because the Engineer called the mistake to the attention of Carrier it cost him a 30-Day suspension. The message sent by this suspension may cause others in the same situation to avoid disclosure, as the penalty seems excessive.

At best, in the circumstances of this case, the Engineer should have only been assessed discipline of a letter of reprimand. The Board will order that the discipline assessed by reduced to a letter of reprimand, and that Claimant be paid for all wage and benefit losses incurred as a result of serving the suspension.

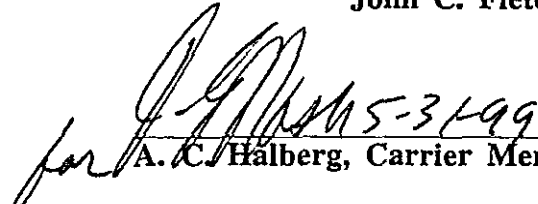
A W A R D

Claim sustained, as indicated above.

O R D E R

The Board concludes that an award favorable to Claimant will be made. Carrier is directed to comply with this award and make any payments that may be required within sixty days of the date indicated below.


John C. Fletcher, Chairman & Neutral Member


A. C. Halberg, Carrier Member


D. E. Thompson, Organization Member

Dated at Mt. Prospect, Illinois., May 24, 1999