

PUBLIC LAW BOARD NO. 6284

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

-and-

Burlington Northern-Santa Fe Railway

AWARD NO. 1

CASE NO. 1

STATEMENT OF CLAIM:

That Engineer John Partridge's discipline be reversed, that he be made whole for any and all time lost, and that the notation on his personal record as a result of this incident be removed.

FINDINGS:

This Public Law Board No. 6284 finds that the parties herein are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated September 5, 1997, the Claimant, Engineer J. W. Partridge, was notified that he was assessed a thirty day suspension for violation of the Carrier's rules on August 8, 1997 as follows:

This letter will confirm that as a result of formal investigation on August 28, 1997, concerning your exceeding the authorized speed past restrictive block indication when entering the west siding switch at Stanley, North Dakota at approximately 0427 hours CDT, August 8, 1997 while Locomotive Engineer on train S-SEACHC1-06 on duty Glasgow, Montana at 2200 hours August 7, 1997, you are issued a Level S suspensions of (30) thirty days for violation of Rules 6.27, 9.1.7 and 9.1.13 of the General Code of Operating Rules. Additionally you have been assigned a probationary period of (1) one year. If you commit another serious rule violation during the tenure of this probation period, you will be subject to dismissal.

Your suspension will commence on August 9, 1997. Any scheduled vacation, leave of absence, or furlough during this time will extend your suspension by the corresponding number of days that fall within the suspension period. You will be reinstated at 0001 hours, Monday, September 8, 1997. Trainmaster Roger Brown at

Glasgow, Montana will have your Locomotive Engineer's Certificate to return to you on September 8, 1997.

This letter will be placed in your personal file. Your signing below serves as receipt of this Level S suspension.

Respectfully,

s/David J. Boen
Terminal Manager

The Organization appealed the discipline, and the matter has been properly progressed to this Board of adjudication.

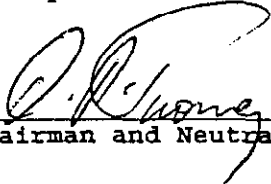
In the early morning period of August 8, 1997, Engineer Partridge was proceeding eastward from Ross, N.D. approaching Stanley on train S-SEACHC1-06. After passing the east bound signal at Ross (M.P. 60.2), the train passed two more signals prior to encountering the signal at West Stanley. Those signals were located at M.P. 58.6 and M.P. 57.0. The train proceeded eastward from Ross around a long right hand curve after which both signals 58.6 and 57.0 become visible. Both the Claimant and Conductor Hicks testified that each of those signals displayed clear indications as they approached and passed them. In fact, the Claimant and Signal Supervisor Jacobson agreed that the signal at 57.0 West Stanley is very visible, especially at night. The pulse tapes indicate that Engineer Partridge was alert and performing his duties consistent with the territory at that time. If the signal at West Stanley displayed a restrictive indication as asserted by the Carrier, the signal at M.P. 58.6 had to display "approach medium", flashing yellow. If the signal at West Stanley displayed a restrictive indication as asserted by the Carrier, the signal at M.P. 57.0 had to display "approach", yellow.

Strictly limited to the narrow facts of this particular record, including the answers to Questions 1005 and 1006, we must conclude that the Carrier has not met its burden of proof. We shall sustain this claim.

AWARD

Claim sustained.

ORDER: The Carrier is required to comply with this award within thirty days.


Chairman and Neutral Member


Employee Member


Carrier Member

Dated: Feb. 26, 2001