

PUBLIC LAW BOARD – NO. 6461

Case No. 15

Award No. 15

PARTIES

to

DISPUTE:

Brotherhood of Maintenance of Way Employees

-and-

Grand Trunk Western Railway

STATEMENT OF CLAIM:

Appeal of the discipline of a permanent disqualification from operation of all rubber tired company vehicles, including backhoes and front end loaders, imposed on William Olin on September 30, 2003.

FINDINGS: This dispute arose as a result of the Carrier charging the claimant with the following offense:

“your alleged responsibility, if any, for violation of CCUS Operating Rules effective June 2, 2002, General Rule C which reads in part as follows:

Operating Rules C - Alert and Attentive

Employee must take care to prevent injury to themselves and other. They must be alert and attentive when performing their duties, observing the condition of equipment and tools they use to perform their duties.

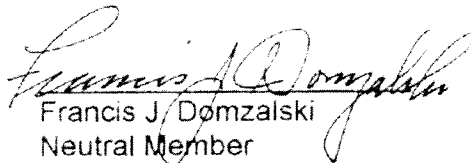
This occurred on Friday, August 29th, 2003 when you were observed crossing a double yellow line and running a red light while operating a company vehicle.”

At the September 15, 2003 hearing, two of the claimant’s co-workers (Messrs. J. Rosser and G. Nimo) from the same bargaining unit, testified that on the date in question, they observed the claimant operating a company truck in an erratic manner. They stated they were either a passenger in his vehicle or driving behind him in another vehicle, when they observed him disregarding several yellow and red light signals and was driving carelessly when he crossed over the center line on several occasions.

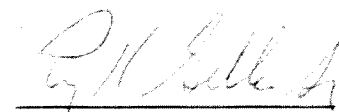
Conversely, in his defense, the claimant admits that he drove through several yellow lights, but steadfastly denies that he drove through a red light or that he crossed over double centerlines.

After a thorough review of the record, I found the claimant's testimony to be contradictory, self-serving and specious. Therefore, considering all of the factors involved in this case, I find the Carrier properly concluded that the claimant was guilty of the offense for which he was charged. Thus I deem the disqualification shall remain in effect, however, after September 2004, the claimant will be allowed, if he so desires, to make a written request for a joint evaluation to demonstrate his ability to operate company vehicles.

AWARD: As specified in the Findings.


Francis J. Domzalski
Neutral Member


Marilyn J. Kovacs
Carrier Member


Perry K. Geller, Sr.
Organization Member

Dated: 6-26-04