

PUBLIC LAW BOARD NO. 6540

AWARD NO. 9

CASE NO. 9

Organization File: D011120.2

Carrier File: 71-02-0018

PARTIES TO
THE DISPUTE:

Brotherhood of Locomotive Engineers

vs.

The Burlington Northern Santa Fe Railway Company

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim sustained in accordance with the Findings

STATEMENT OF CLAIM:

"That Engineer W. F. (Bill) Lovell (the Claimant) be reinstated to service, that he be made whole for any and all time and benefits lost, including time attending the investigation, and that the notation on his personal record as a result of this incident be removed."

FINDINGS OF THE BOARD:


The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

After reviewing the submissions of the parties, it is apparent that Claimant's culpability for the incident in question is comparable to that of the conductor of the crew. The conductor's dismissal is under review by Public Law Board No. 3304 in Case No. 528. That Board has announced, as a preliminary matter pending issuance of its final award, that the conductor will be reinstated with full seniority; the question of back pay, if any, will be resolved by the final award.

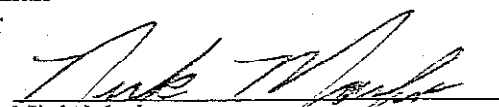
In light of these circumstances, it is determined that Claimant is entitled to immediate reinstatement to service with his seniority unimpaired. Any back pay remedy shall be commensurate with the corresponding remedy, if any, provided by Public Law Board No. 3304 by its award in Case No. 528.

AWARD:

The Claim is sustained in accordance with the Findings.


Gerald E. Wallin, Chairman
and Neutral Member


Stephen D. Speagle,
Organization Member


Nick Markos,
Carrier Member

Date: April 29, 2003