

PUBLIC LAW BOARD NO. 6942

UNITED TRANSPORTATION UNION

and

NMB No. 14

AWARD No. 14

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM

North Platte Yardman R.R. Vogt ("Claimant") seeks removal of a 5 day suspension and Level 2 Discipline plus pay for all lost time and benefits. He raises substantive, but no procedural, issues.

FINDINGS

After review of the entire record, the Board finds the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and, the parties were given due and proper notice of the hearing.

Claimant was charged with violating General Code of Operating Rules 70.1, 7.1, 7.4, 7.7 and SSI Item 17. After formal investigation, the Carrier assessed Level 2 discipline, with an actual 5 day suspension, for failure to take proper precautions to safely switch, couple and kick a railcar in East Bowl 52, resulting in derailment of a railcar and switch engine at approximately 2:00 a.m. on February 27, 2005. Specifically, the Carrier concluded Claimant failed to properly line up the drawbars while making a coupling on a curve.

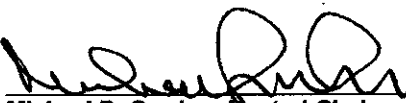
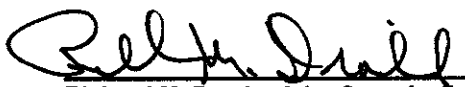
Claimant acknowledges (1) he kicked the rail car from track 55 to track 52 with the handbreak applied; (2) the drawbars by-passed when he tried to couple the locomotive to the railcar; and (3) he

made a 1/mph move east for 7 feet attempting to rerail the locomotive. He asserts he did not move at excessive speed (3/mph); he took every precaution to assure the drawbars would align on the curve; and, it is fairly normal for drawbars to by-pass.

The weight of credible evidence shows the accident resulted from an impact during a coupling while Claimant operated the switch engine at 3/mph on a curve while the railcar handbreak was applied and that Claimant then attempted to move the locomotive after it was on the ground. While there is insufficient evidence of Rule 7.7 and SSI Item 17 violations, Claimant's admissions that he (1) attempted to align the couples from 100 feet away and (2) moved to rerail the locomotive because he is "fairly new" constitute substantial evidence of other cited Rule violations warranting his discipline. The coupling on a curve requires extra care and Claimant's relative short service is inconsequential and, also, inconsistent with other claims that he did everything as required.

AWARD

Claim denied.


Michael D. Gordon, Neutral Chairman
Robert A. Henderson, Carrier Member
Richard M. Draskovich, Organization MemberAWARD DATE: 6-6-06