

PUBLIC LAW BOARD 6942

Case No. 39

Parties to the Dispute: Union Pacific Railroad Company  
and  
United Transportation Union

Statement of Claim: Switchman E.W. Marks filed a claim as a result of Level 3 discipline that was assessed as a result of investigation held in Salina on September 1, 2005. He requests that the discipline be removed and pay for all time lost, including investigation, vacation benefits, insurance and otherwise made whole

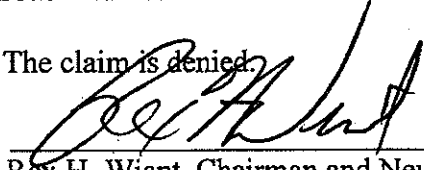
Background: On August 14, 2005 the Claimant was working in the Salina yard job TSN48-14 when at approximately 1025 hours he was pulling cars from track 20. While pulling the cars from track 20, he was observed by Carrier's Manager of Train Operations D. Smith. MTO Smith observed that the Claimant did not release the handbrakes on cars ROBX33201, DRGW330172 and CNW350441 before commencing the pull. The result was damage to the wheels.


Carriers Position: Substantial evidence was presented at the investigation that the Claimant failed to release the handbrakes on three cars that resulted in damage to the wheels. Numerous similar cases have been adjudicated upholding the Carriers right to discipline.


Organizations Position: The investigation did not establish that the Claimant violated Rule 81:11.1 when he did not release the handbrakes in question. The Claimant testified that the rule did not require handbrake to be released and he did not violate any part of the rule. No damage resulted from the incident.

Findings: The Carrier met its burden that substantial evidence was presented that the Claimant failed to release the hand brake on cars ROBX33201, DRGW330172 and CNW350441 resulting in damage to the wheels. The Claimant's argument that he was not required to release the hand brakes is rejected. The Chairman of the panel has not done much railroad work but he understands wheels work best when they turn.

Award: The claim is denied.

  
Rex H. Wiant, Chairman and Neutral Member of the Board

  
Employee Member, R. M. Draskovich  
Sr. Vice General Chairman

  
Carrier Member, R. A. Henderson  
Assistant Director Labor Relations

Dated on May 30, 2006 in Kansas City, Missouri.