

PUBLIC LAW BOARD 6942
Case No. 41

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

Statement of Claim: Claim of Conductor T. W. Gaertner EID #0154526 for pay for all time and benefits lost and removal of a 5-day suspension and Level 3 discipline from his personal record as a result of the formal investigation held on July 6, 2005.

Background: On April 13, 2005 at approximately 1715 hours, Claimant Gaertner while working in the ISEG3-11 near milepost 516.0 on the Huntington Subdivision allegedly failed to make a roll-by inspection of a passing train, while his train was stationary. Claimant was charged with a violation of the General Code of Operating Rules 6.29.1, which resulted in a Level 3 under the Behavior Modification Discipline Assessment Table.

Carriers Position: The investigation held on July 6, 2005, indicates that there was ample evidence of the Claimant's failure to perform an on ground roll-by inspection of the passing train. The Grievant should have been prepared and did not attempt to make the investigation.

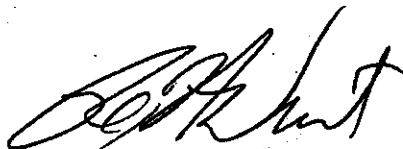
Organizations Position: The Carrier failed to prove its allegations against the Claimant therefore the discipline is arbitrary and unwarranted. Employees are commissioned to conduct their job duties in the safest manner possible. To do so the Claimant prioritized his work. This meant that before dismounting his locomotive to perform the roll-by inspection of a passing train, the Claimant prepared himself for the work of setting out a unit from his train. At the same time, he was required to observe the requirements of being in the "Cab Red Zone". The Claimant was performing his job duties to the best to of his ability at the time.

Findings: The Carrier proved the allegations that the Claimant did not perform a roll-by inspection on April 13, 2005. At the time the Claimant's train was stopped and he had no other responsibilities but to do the roll-by inspection. It is a longstanding rule that employees on stopped trains must perform roll-by inspections. There was no question about the safety of the location.

The Carrier does not want to have individual workers prioritizing their work. They want the work done as required by the Carrier's schedule in a safe manner.

The typographical error dealing with the employee's ID number is not significant.

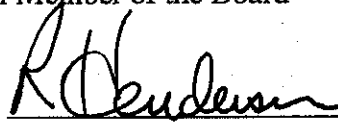
Award: Claim denied.



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



Employee Member
Richard M. Draskovich
Sr. Vice General Chairman



Carrier Member
Robert A. Henderson
Assistant Director Labor Relations

Dated on May 31, 2006 in Kansas City, Missouri.