

PUBLIC LAW BOARD NO. 3558

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION COMPANY (EASTERN LINES)

STATEMENT OF CLAIM:

"Claim on behalf of B&B Foreman P. C. Simms for forty (40) hours pay at B&B Foreman's respective pro rata rate and his work record cleared of the alleged charges of violating Rule 202-B."
(MW-83-70/394-34-A)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee respectively within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The record shows that Claimant had admittedly failed to comply with Rules and Regulations for the Maintenance of Way and Structures Department while working as a Bridge and Building Foreman within Centralized Traffic Control limits on March 18, 1983. He wrongfully assumed it was not necessary he take precautionary measures to protect against rail traffic because he had what are termed "work limits and clock time limits" from the Train Dispatcher.

It is unquestioned that the Train Dispatcher was negligent in his failure to permit a train to enter the B&B Foreman's work limits, resulting in the train striking a crab car which was on the track. However, the Train Dispatcher's negligence, for which he was disciplined, in no way excused Claimant of responsibility to fully comply with the dictates of Rule M-202-B, which, in pertinent part provide as follows:

"Within C.T.C. limits...after work limits and clock time limit have been obtained, foreman must lock selector lever in hand position or remove switch machine crank from crank holder of dual control switch at either end of the entrance to the work limits and switch must not be returned to motor position until track is made safe for passage of trains..."

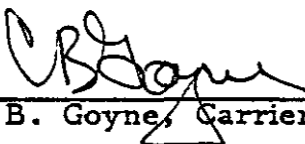
In view of the seriousness of Claimant's failure to have either provided for locking the selector lever in hand position or removing the switch machine crank from the crank holder of the dual control switch at the entrance to the work limits he had been given, there is no basis for disturbing the discipline assessed. Merely because others have a responsibility to ensure protection of a track area does not mean that rules and regulations which act as a check or balance to further ensure such protection are to be lightly treated or disregarded by employees subject to such rules and regulations.

As indicated above, since we do not find that Claimant is entitled to have the seriousness of his offense mitigated because of the Train Dispatcher's error, the claim will be denied.

AWARD:

Claim denied.


Robert E. Peterson, Chairman
and Neutral Member


C. B. Goyne, Carrier Member


M. A. Christie, Employee Member

San Antonio, TX
June 10, 1984