

PUBLIC LAW BOARD NO. 4338

SEP 15 1988
VICE PRESIDENT
LABOR RELATIONS

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: The discipline (letter of reprimand) assessed Track Inspector C. M. Wid for alleged violation of various company rules as indicated in Mr. L. D. Smith's letter of June 15, 1988 was arbitrary, capricious and unwarranted.

The claimant's record shall be cleared of the discipline referred to in Part (1) hereof.

FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified by letter dated May 9, 1988 to attend an investigation to develop the facts and determine his responsibility, if any, in connection with an alleged incident which occurred while he was working as Track Inspector, Sidney Subdivision, pertaining to his allegedly not finding defect and reporting or taking corrective action for track conditions that did not meet minimum requirements at Mile Post 294.2 as noted on FRA Track Inspection Report No. 42, dated April 12, 1988, indicating violations of Sections 213.9 and 213.63 of Form 3004 effective October 16, 1972, revised November 1, 1982; Chief Engineer's Instruction Bulletin No. CE-88-002-G effective April 1, 1988; and General Rule B as contained in the Maintenance of Way Rules, effective April 5, 1987.

The investigation was postponed and was held on June 2, 1988. Pursuant to the investigation the claimant was found guilty and was issued a letter of reprimand. The Union filed a claim in the claimant's behalf which is now before this Board for consideration.

Bill Jackson, Manager of Engineering Maintenance, Cheyenne, testified that the government ran a track inspection car across the territory, No. 1 Track from North Platte to Cheyenne and picked up different locations on the track structure which had defects.

Mr. Jackson testified that he gave the claimant some of the locations which had to be corrected and told him to get the rest of the locations and check them out with the level board because a lot of them were not visible just going over them with a hi-rail

or motor and to have them corrected prior to April 12. He testified the claimant did not do so. He stated that on April 12 the Federal Track Inspector wrote up a Code 1 violation which subjects the railroad to fine.

The claimant testified that he assumed Mr. Jackson only wanted him to check the locations which were on the list given to him. He also testified that he asked two of the foremen if they had a list and they did not have.

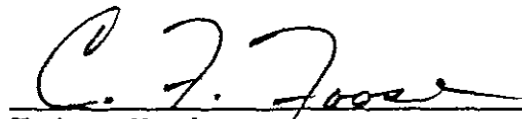
The claimant further testified that his foreman was on vacation at that time, and the evidence indicates the foreman's list was in his pick up truck, and the keys to the pick up truck were in his desk. The claimant also testified that Foremen Rangel and Lee had worked the area in question, and he had no reason to suspect a problem.

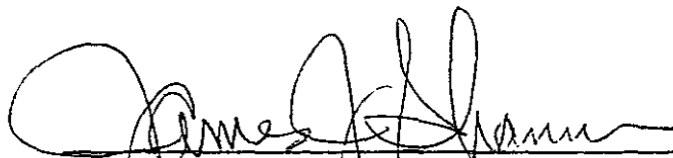
The Board has reviewed all of the testimony and evidence of record and finds that the evidence fails to support any discipline. The Carrier is directed to set the letter of reprimand aside and to remove all reference of this discipline from the claimant's file.

AWARD: Claim sustained.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.


Preston J. Moore, Chairman


Union Member


Carrier Member