

PUBLIC LAW BOARD NO. 4338

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

SEP 15 1988
VICE PRESIDENT-
LABOR RELATIONS

STATEMENT OF CLAIM:

1. The discipline (30 days deferred suspension) assessed Track Inspector R. B. Carrington for alleged violation of various company rules as indicated in Mr. Dave Wheeler's letter of May 27, 1988, was arbitrary, capricious and unwarranted.

2. The claimant's record shall be cleared of the discipline referred to in Part (1) hereof and he shall be compensated for all time lost in connection with Mr. Wheeler's decision.

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 to attend a formal investigation in Salt Lake City on May 10, 1988 to develop the facts and determine his responsibility, if any, on charges that he allegedly failed to inspect or detect dangerously wide gauge conditions on the Union Pacific Railroad curve at CP 782 which connects the No. 2 Main Line to the Denver & Rio Grande Yard at Salt Lake City which resulted in the derailment of VADEMY coal train at approximately 1:30 p.m. on April 19, 1988, indicating possible violation of General Rules A, B, D, E and 1865 of Maintenance of Way and Signal Rule Book for Examined Employees. General Notice, and Rule 607 of the Safety, Radio and General Rules for All Employees, revised April 27, 1986, Chief Engineer's Bulletin CE-87-002-G, effective April, 1987 and Form 3004, Track Safety Standards Established by the Federal Railroad Administration, revised November 1, 1982.

The investigation was held on May 10, 1988. Pursuant to the investigation the claimant was found guilty and was assessed thirty days deferred suspension.

The transcript contains 29 pages of testimony. Numerous exhibits were also submitted. The Board has reviewed all of the evidence and testimony of record.

The claimant testified that he knew the track in question was their track, and he had inspected it previously.

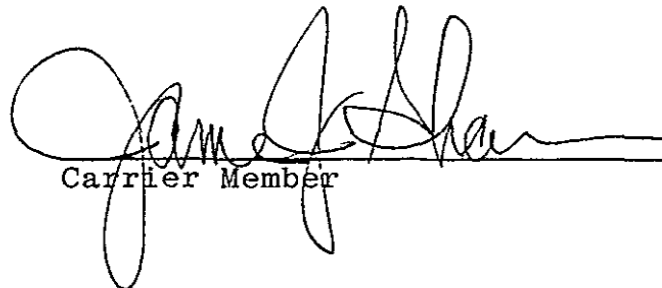
The Union has raised several issues which were satisfactorily resolved by the testimony.

The evidence establishes that the claimant did, in fact, fail to inspect or detect dangerously wide guage conditions as charged. Under the circumstances there is no justification for setting the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member