

PUBLIC LAW BOARD NO. 4338

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

STATEMENT OF CLAIM:

(1) The dismissal assessed System Gang Foreman Ricky R. Crespín for alleged violation of various company rules as indicated in Hearing Officer B. A. Moser's letter of October 12, 1989 was arbitrary, capricious and unwarranted.

(2) Provided the charges were sustained appropriately, which they were not, the discipline assessed was much too severe.

(3) In light of (1) and (2) above the claimant's record shall be cleared of the discipline referred to in Part (1) and he shall be reinstated with his seniority and all other rights restored unimpaired, including those specified in Article V, Section 5 of the December 1, 1981 National Agreement, and he shall be made whole for all losses sustained in this regard.

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 an investigation at Pocatello, Idaho on September 18, 1989 to develop the facts and determine his responsibility on charges of allegedly failing to properly protect live outfit cars on Gang 9010 after moving Gang 9010 on or about Monday, August 21, 1989 from near Cache Junction, Utah to Evanston, Wyoming, which indicated a possible violation of General Rules A, B, D, I and Rules 1552 and 1553 of Union Pacific Railroad Maintenance of Way Rules, effective April 1, 1988.

The investigation was postponed and was held on October 2, 1989. Pursuant to the investigation the claimant was dismissed from the service of the Carrier.

The transcript of record contains 100 pages of testimony. The Board has reviewed the testimony of record, as well as the exhibits submitted by the parties.

After reviewing all of the evidence there is no question but that the Carrier had sufficient evidence to find that the claimant violated the rules of the Carrier, and such justified serious discipline. Under the circumstances there is no justification to overrule the decision of the Carrier.

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AWARD: Claim denied.

Preston J. Moore

Preston J. Moore, Chairman

C. J. Fosse

Union Member

January 2, 1990

L. E. Smith

Carrier Member