

AWARD NO. 130
NMB CASE NO. 130
UNION CASE 99076
COMPANY CASE 1204882

PUBLIC LAW BOARD NO. 4450

PARTIES TO THE DISPUTE:

UNION PACIFIC RAILROAD COMPANY
(Western Region)

- and -

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

STATEMENT OF CLAIM:

Appealing the Upgrade Level 2 Discipline assessed to Engineer M. J. Irving and request the expungement of discipline assessed and pay for any and all time lost with all seniority and vacation rights restored unimpaired. Action taken as a result of formal investigation held on October 7, 1999.

OPINION OF BOARD: The formal investigation in this matter was held on October 7, 1999. By certified letter dated October 14, 1999, Superintendent Hunt purported to notify Claimant that he had been found guilty and assessed a level 2 Upgrade Discipline. However, that letter was returned to Carrier unclaimed by Engineer Irving. By letter dated November 17, 1999, the BLE Local Chairman pointed out to Carrier that his copy of the October 14, 1999 letter was misaddressed to the extent that it identified Local Chairman Lehmann rather than Engineer Irving as the employee upon whom the Level 2 discipline had been assessed. By certified letters of November 22, 1999 and of November 23, 1999, to Claimant and to Local Chairman Lehmann, respectively, Superintendent Hunt acknowledged the "word processing error" and advised that the Level 2 Discipline was assessed against Claimant.

The patent violation of the ten (10) day time limits of the System Agreement-Discipline Rule, Sections 9 and 10 for rendering the disciplinary decision, which was not cured by the Superintendent's belated November 1999 letters, requires that this claim be sustained without further comment.

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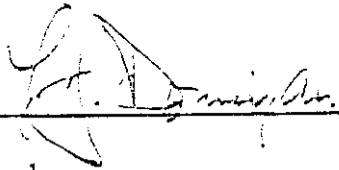
AWARD

- 1) Claim sustained.
- 2) Carrier shall implement this award within thirty (30) days of its execution by a majority of the Board.

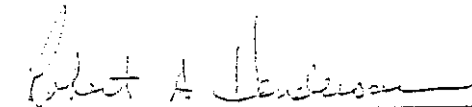


Dana Edward Eischen, Chairman

Dated at Spencer, New York on March 9, 2002



Union Member



Company Member