

AWARD NO. 157
NMB CASE NO. 157
UNION CASE NO. 20115
COMPANY CASE NO. 1255770

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 4 Discipline assessed to Engineer J. B. Jarvis and request the removal 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 January 19, 2001.

OPINION OF BOARD:

On January 13, 2001 Engineer J. B. Jarvis ("Claimant") was working as the Engineer on yard engine Job R601 on duty at 7:30 a.m. in Roper Yard in Salt Lake City Terminal. At approximately 1:45 p.m., the Claimant's crew coupled into a cut of 24 coal cars in Track 8 and pulled out the 10 Lead Track toward the Break Up Yard Lead at 10 miles per hour. A coal train had departed about 5 minutes prior to the move from Track 9 and lined the switches for their move, including the 10 Lead switch onto the Break Up Yard Lead. In the meantime, the LJ144 was also pulling down the Break Up Yard Lead to depart on a trip to Helper, Utah. Each crew's vision of the other crew was impaired by cars on the Rip Track located between them and the conflicting movement did not become apparent until they were only a few yards apart.

Subsequent testimony established that the Conductor of the LJ144 was reboarding after lining the switch, when he first saw Claimant's train and yelled a warning to his crew that they were going to be run into by the yard engine. The conflicting movement had become apparent to the yard crew only a few cars from the switch and after being warned by Switch Foreman Anderson, Claimant

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applied the locomotive brakes then placed locomotive brakes into emergency. The brakes on the cars were not cut-in and the Yard movement struck the Local on the front end of the second locomotive of the consist, also striking the first unit, causing derailment and damage but no injuries.

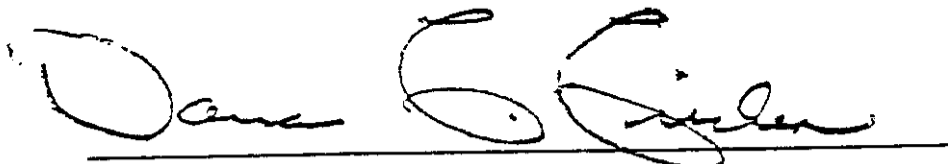
Based on a preliminary on-site investigation, local Carrier officers exonerated the LJ144 crew and held Claimant's crew responsible for not stopping his train short of the collision. Even though the evidence eventually placed in the record at the formal hearing and investigation plainly demonstrates that the LJ144 crew was in fact solely responsible for the incident, Carrier nonetheless sustained the charge against Claimant and assessed his record with a Level 4 Upgrade discipline.

We must reverse that action because the indisputable record evidence shows that Train LJ144's locomotive was only five feet away from the switch after its conductor threw it. This demonstrates that Train LJ144 literally moved into Petitioner's route, affording Petitioner no advanced warning of the conflicting movement and thus no viable opportunity to stop his movement. Carrier failed to carry its burden of proof in this case and the discipline therefore is rescinded.

AWARD

1) Claim sustained.

2) Carrier shall implement this Award within thirty (30) days of its execution by a majority of the Board.

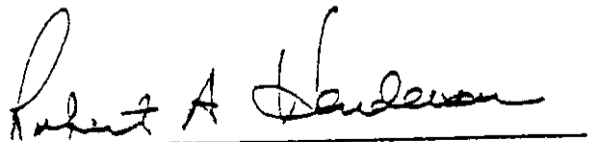


Dana Edward Eischen, Chairman



Union Member

12.27-02



Company Member