

UTU CASE NO. AE414-306-41-E
UP FILE NO. 1134785
RMR NO. 57

PUBLIC LAW BOARD S089
AWARD NO. 57

Parties to Dispute: Union Pacific Railroad Company

and

United Transportation Union

Statement of Claim

Engineer R.J. Thomas (SS# 504-52-7422) for the removal of Level 4 of the UPGRADE Progressive Discipline Policy (30 days actual suspension) from his personal record, and he be compensated for any and all lost time, including any deferred suspension served, if any, plus time spent attending an investigation held on June 5, 1998, when charged with an alleged responsibility in connection with the report that "at approximately 0320 hours on May 13, 1998, while employed as Engineer on Train LNL37-13, you allegedly failed to stop short of a BNSF train while operating on the BNSF main track at Sioux City, Iowa, resulting in subsequent collision and damage to engine and cars. Your actions indicate possible violation of Rules 6.13 and 6.27, among others, of the Union Pacific Rules effective April 10, 1994, and resulted in a thirty (30) day revocation of your Locomotive Engineer Certification as required by 49 CFR part 240.117 paragraph g."

Findings

On May 12, 1998, Claimant Engineer R.J. Thomas was operating Train LNL37-13 at Sioux City, Iowa. During his tour of duty, a standby BNSF empty coal train was struck and derailed by Claimant's train.

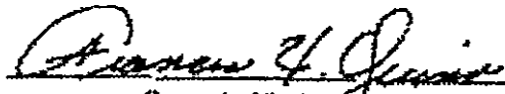
A review of the record exonerates the Claimant. The investigation was not held in a timely manner as required by the System Discipline Rule. Paragraph 5 requires that the investigation be held no later than ten (10) days after the notice, unless postponed for good cause. The Carrier has not offered a reason for the postponement, nor did the Carrier have concurrence with the Organization for

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the postponement. See Award 7064 of First Division of NRAB. Justice delayed was justice denied.

Award

Claim sustained.


Francis X. Quinn
Chair and Neutral Member


Dennis Gonzales
Carrier Member


John Babler
Organization Member

Date 6-17-99
Salt Lake City, Utah