

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)	
)	
vs.)	Parties to Dispute
)	
UNION PACIFIC RAILROAD COMPANY)	

STATEMENT OF CLAIM:

Claim in behalf of Engineer P. C. Tucker, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility in connection with exceeding the maximum authorized speed of 40 MPH when you were detected, by radar, operating at 47.2 MPH on the Soo Line, M.P. 489.0, Track 2, on the Trenton Subdivision at 1:45 a.m. on October 28, 1990, while working as Engineer on PRKWA on duty at 8:30 p.m. on October 27, 1990."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that the Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant Engineer was found responsible for operating his train at 47.2 mph where the speed limit was 40 mph. Basis for the finding was a radar test by a supervisor. Claimant maintained that the speedometer in his engine indicated 40 mph.

Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Following a disciplinary investigation, Claimant Engineer was found responsible in connection with operating from Chicago Ridge to Landers on the N&W mainline without a clearance in his possession. He was disciplined with five (5) days suspension.

The transcript shows that the train's clearance and orders were given to the head brakeman, they were seen by the conductor but not by the engineer, were then dropped by the brakeman and found some time later by the operator.

The crew operated over the trackage in question without incident but it was a violation to proceed without their clearance and orders.

The record indicates that the only employee disciplined was the engineer. The brakeman lost the paperwork and the conductor did not have it in his possession while traversing

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the trackage. There is basic unfairness here as three (3) employees had responsibility but only one was suspended. In this circumstance, the discipline of Claimant Engineer must be set aside.

AWARD

Claim is sustained.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. D. MacArthur
Employee Member

D. J. Gonsala
Carrier Member

J. C. Kelly
Chairman and Neutral Member

Dated: Feb 20, 1958