PUBLIC LAW BOARD NO. 5383

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

STATEMENT OF CLAIM:

      Claim in behalf of Fireman M. Madonia, 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
      your being quarrelsome and your making
      threats to General Foreman M. Haskins
      at approximately 7:00 a.m. on July 14,
      1984, at the Proviso Diesel Ramp."

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 Fireman was disciplined with fifteen (15) days
suspension when found responsible for being quarrelsome and making
threats to a General Foreman.

Timely objection was made by the Employees that the claim
should be allowed since the investigation was not held in

accordance with Rule 41 (INVESTIGATION AND DISCIPLINE) reading in part as follows:

> "Investigation shall ordinarily
> be held within three (3) days."

The Board finds the position of the Employees to be correct as the investigation was held on the sixth (6th) day following the incident and no valid reason was stated for going beyond three (3) days. The mere assertion that the "investigation was held within the latitude of Rule 41" is insufficient.

Decision is made on procedural grounds alone without any relationship to merit.

AWARD

Claim is sustained as indicated above.

ORDER

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

B. D. MacArthur
Employee Member

W. J. Gamalen
Carrier Member

_____
Chairman and Neutral Member

Dated: _Feb 20, 1998_

-2-