

Award No. 529  
Case No. 529

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 W. W. Hoppenrath, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for five (5) days suspension, time spent at the investigation, seniority and vacation rights unimpaired and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

Your responsibility for your failure to properly protect your assignment when you failed to report at the designated starting time for Engineer assignment, Crew #2, Job 7302, on duty West Chicago, on December 9, 1994, which resulted in a delay to Train #10 on December 9 1994."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within

PLB NO. 5383  
AND NO. 529

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 failure to protect incident to reporting late for his assignment. He was disciplined with five (5) days suspension.

It is not disputed that Claimant reported late and caused a few minutes delay. The difficulty with assessing discipline here, however, is to be found in the C&NW Discipline System. A similar dispute was adjudicated by the First Division which held, in part, as follows in Award 24210:

"Since the effective date of the Discipline Policy, Claimant had receive two Letters of Review, which are not considered discipline, but had not received a Letter of Warning. Thus, he had not been put on notice that he was subject to the discipline system, as provided in paragraph (a) above. Furthermore, we cannot find that Claimant's conduct meets the standards set forth in paragraph (b), which would permit the Carrier to assess a five day suspension upon an employee who had not already received a Letter of Warning. While his conduct may have been negligent, it was not of such a serious nature that it would warrant discipline under this provision."

PLB NO. 5383  
AWD NO. 529

In the instant case we note that Claimant's service record is far from exemplary, but he has received only "Letters of Review" and no "Letter of Warning" since the C&NW Discipline System became effective. Under the premise of the above Award, the suspension shall be set aside and he shall be issued a "Letter of Warning" in lieu thereof. Claimant shall also be compensated for all time lost.

AWARD

Claim is sustained to the extent indicated above.

ORDER

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

B. H. Bruce Arthur  
Employee Member

D. J. Benzala  
Carrier Member

D. Keely  
Chairman and Neutral Member

Dated: 3-20-98