

Award No. 586
Case No. 586

PUBLIC LAW BOARD NO. 5383

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

STATEMENT OF CLAIM:

The Brotherhood of Locomotive Engineers Union Pacific, former Chicago and North Western request the Division compensate Engineer E. E. St. John for all time lost including time spent at the investigation and that this incident be removed from Claimant's personal file when he was investigated on May 22, 1979 regarding the following charge:

"Your responsibility failure to make train inspection at Campbellsport, Wisconsin on April 26, 1979 when you were assigned to 296's Extra ordered at North Fond du Lac at 8:45 P.M."

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 failure to inspect his train after passing a hot box detector. He was disciplined with thirty (30) days suspension.

The essential facts are that an operator made several unsuccessful attempts to contact Claimant and crew by radio to inform them to stop and inspect two (2) cars in the train that were suspect. The applicable rule reads as follows:

"Hot box detector, Campbellsport, MP 131.8.
All trains must stop and call the train
dispatcher from the telephone locations
shown below unless radio communication is
received authorizing their train to proceed.
Westward trains MP 138.5, eastward train
MP 125.3."

Claimant Engineer testified that he had called an unidentified operator by radio who informed him to proceed ("highball"). The Conductor testified that he heard the Engineer only in this conversation.

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The Board finds that the discipline here must be set aside. Where veracity is at issue all those with first hand information should testify, and in this case it is seen that the head brakeman was a prime witness but he was not called by the Carrier to be in attendance. Because of this defect the claim will be allowed.

AWARD

Claim is sustained.

ORDER

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

B. H. Linn Arthur
Employee Member

W. J. Gonzalez
Carrier Member

W. J. Kelly
Chairman and Neutral Member

Dated: 5-22-98