

Award No. 617
Case No. 617

PUBLIC LAW BOARD NO. 5383

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|-------------------------------------|---|--------------------|
| 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 M. Troy 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 October 27, 1980 regarding the following charge:

"Your responsibility for the damage to two (2) units, CNW 4483 and UP 2486, at the south end of Nelson Yard on October 12, 1980 at approximately 10:30 P.M. while employed as the engineer of Nelson yard Assignment 02 (starting 3:59 PM)."

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.

Following a disciplinary investigation, Claimant Engineer was assessed sixty (60) days suspension for responsibility in connection with damage to two (2) locomotive units.

The Board finds that the discipline here should be set aside due to a procedural defect regardless of merit. Rule 41 requires that investigations "shall ordinarily be held within three (3) days". The investigation was not held within three (3) days, with no reason asserted, and, as a result, the Carrier's action is nullified by the rule violation.

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. MacArthur
Employee Member

O. J. Benzale
Carrier Member

H. Kelly
Chairman and Neutral Member

Dated: 6-23-98