

PUBLIC LAW BOARD NO. 5604

Case No. 20  
Award No. 20

Parties To Dispute:           BROTHERHOOD OF LOCOMOTIVE ENGINEERS

-AND-

UNION PACIFIC RAILROAD COMPANY

Statement of Claim:

Claim of First District (Council Bluffs) Engineer T.J. Scott for removal of Level 4 discipline (30 day suspension and Corrective Action Plan) from his personal record and pay for all time lost.

Findings:

This Board, upon the whole record and all the evidence, finds as follows:

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

On June 26, 1995, Claimant was the Engineer on eastbound Train CRMBV-25 operating between North Platte, Nebraska and Council Bluffs, Iowa on the Council Bluffs Subdivision. When the crew of CRMBV-25 reported to the North Platte terminal they were given track warrant #2272. However, track warrant #2272 was not valid for movement between North Platte and Council Bluffs on the Council Bluffs Subdivision. Rather, it was valid for movement from South Morrill to North Platte on the Sidney and North Platte sub-division branch.

Shortly after Train CRMBV-25 commenced its road trip the Claimant and his Conductor realized that track warrant #2272 was not applicable to their road trip from North Platte to Council Bluffs. When the train was in the east end of the yard in North Platte the Claimant contacted the Train Dispatcher to obtain a correct track warrant(s). The Dispatcher instructed the crew to proceed to Keith at MP276.3 and stop.

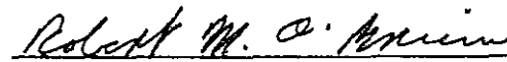
The Claimant was notified to attend a formal investigation on June 29, 1995, to determine his responsibility, if any, for his alleged failure to secure proper track warrants and bulletins for the Council Bluffs Subdivision. On July 7, 1995, the Claimant was advised that this charge had been sustained and he was being assessed Level 4 discipline under the UPGRADE policy (30 working day suspension and Corrective Action Plan upon his return to service).

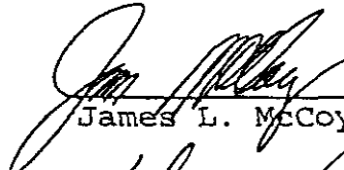
Under the facts of this particular case, this Board finds the discipline assessed the Claimant unwarranted. As soon as the Claimant realized he had an improper track warrant for his road trip from North Platte to Council Bluffs, he contacted the Train Dispatcher to obtain a valid track warrant(s) and bulletins.

It is noteworthy that train CRMBV-25 had not left the initial terminal at North Platte when this error was discovered. The crew only left the yard when the Dispatcher instructed them to proceed to Keith and stop. Thus, their road trip had not commenced when the crew realized they had an improper track warrant. Under these circumstances, this Board finds that the discipline assessed the Claimant was unjustified and must be removed from his personal record. The claim is therefore sustained.

Award: Claim sustained.

The Carrier is ordered to make the within Award effective on or before thirty (30) days from the date hereof.

  
Robert M. O'Brien, Neutral Member

  
James L. McCoy, Employee Member

  
Dennis J. Gonzales, Carrier Member

Dated: 12-2-98