

PUBLIC LAW BOARD NO. 5942

Case No. 34 Award No. 34

PARTIES Union Pacific Railroad Company
to and
DISPUTE: Brotherhood of Locomotive Engineers

STATEMENT OF CLAIM

Request that the level 3 discipline be removed from Engineer G. R. Morris' record and that he be paid for all time lost and vacation rights, unimpaired.

FINDINGS: This claim arose because of an incident that occurred on July 26, 1996 at the Carrier's Lloyd Yard, Spring, Texas. On July 26, 1996, the Claimant and Mr. R. A. Humphrey ("Humphrey"), a Conductor, as well as a fellow crew member were working a train at the Lloyd Yard. At approximately 10:40 p.m., the Claimant heard some cars hit, braced himself and, in some fashion, injured (bruised) his shoulder. At the time of the injury, he was outside of the engine on the engineer's side of the platform when he apparently was slung around by the slack action of the cars hitting. The primary issue before the Board is whether the Claimant ("Morris") failed to "properly report" the injury as required by the Carrier's operating rules.

The Organization contends that the proceedings on-the-property were not fair or impartial. Without prejudice to that position, the Organization also contends that the claim should be sustained on its merits.

With respect to the fairness issue, while the Organization's position is not without merit and while we note that the charge letter lacked a degree of specificity, we find that this claim should be decided on its merits.

The Carrier's operating Rule 1.25-Reporting, is very specific. In part, it states that "all cases of personal injury, while on duty or on Company property, must be immediately reported to the proper manager and the prescribed form completed."

As noted earlier by this Board in its Award 33, there are many important reasons for the requirement to promptly report injuries. For the sake of its employees and the public, the Carrier has an obligation to operate in a safe manner. Moreover, it must protect itself

against possible liabilities arising because of personal injuries. It also has a responsibility to administer these safety rules in a responsible and reasonable fashion. This means that each case must be examined within the context of the overall circumstances at the time of the incident.

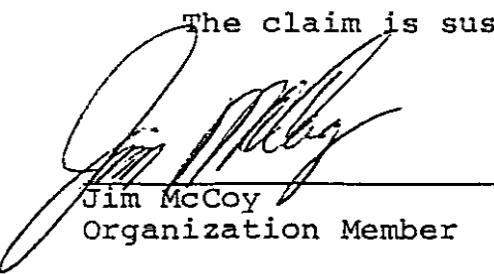
Clearly, a fair reading of the transcript of the hearing leads the Board to conclude that the Claimant did not ignore his reporting responsibilities. He reported the injury immediately after it occurred to Humphrey. Both Humphrey and the Claimant were under the impression that Humphrey was the supervisor. This conclusion was clearly shown by the testimony. Accordingly, with respect to the Claimant, there is an argument reasonably drawn that he did report his injury immediately.

Given this evidence and evidence he then filled out his required "705 Report" and reported his injury to Mr. M. T. Wilde ("Wilde"), the Manager of Train Operations in Taylor, Texas (the location where Humphrey and the Claimant filled out their time cards and went off duty), we find that he complied with the Rule. The Board also notes that Wilde, at the time the Claimant reported to him, gave no substantive indication that the Claimant had erred by not reporting to one of the supervisors at Lloyd Yard.

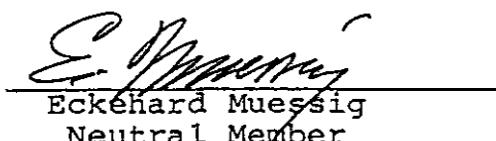
In summary, to discipline the Claimant for not preparing his written report until the end of his trip, serves no useful purpose. At the most, it may have been appropriate to discuss reporting requirements with the Claimant, Humphrey and Wilde.

AWARD

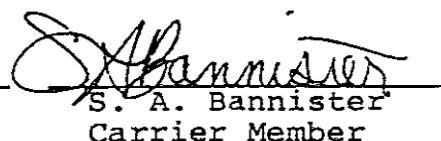
The claim is sustained.



Jim McCoy
Organization Member



Eckehard Muessig
Neutral Member



S. A. Bannister
Carrier Member

Dated: 4-8-98