

**PUBLIC LAW BOARD NO. 5943**

**PARTIES**    )  
          **TO**       )  
**DISPUTE**    )    **BROTHERHOOD OF LOCOMOTIVE ENGINEERS**  
                          **UNION PACIFIC RAILROAD COMPANY**

**STATEMENT OF CLAIM**

Claim on behalf of Engineer J. M. Allen to have record cleared of a Level 2 discipline assessed for responsibility in connection with a derailment and track damage.

**OPINION OF BOARD**

After investigation held on April 26, 1995, the Carrier issued notice to Claimant on May 12, 1995 that he was assessed a Level 2 discipline in connection with a derailment of three cars on April 18, 1995.

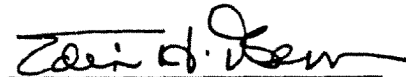
Article 44, paragraph 3 requires, in pertinent part, that "A decision shall be rendered within ten (10) days following completion of the investigation." The May 12, 1995 discipline in this case from the April 26, 1995 investigation did not meet that 10 day requirement. In light of the configuration of the yard established by the record, had this Board been able to reach the merits of this claim we would have denied the same. However, Article 44, paragraph 3 prevents us from reaching

the merits. The discipline was untimely. The claim shall be sustained.

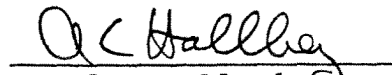
The discipline is rescinded and Claimant shall be made whole in all respects.

**AWARD**

Claim sustained.



Edwin H. Benn  
Neutral Member



Carrier Member  
A. C. Hallberg



Organization Member  
W. R. Slone II

Fort Worth, Texas

Dated: 8/1/98