

PUBLIC LAW BOARD NO. 5943

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

STATEMENT OF CLAIM

Claim of Engineer P. O. West for removal of Level 3 discipline from his record and payment for a five-day suspension assessed as a result of violation of Company Safety Rules

OPINION OF BOARD

Claimant received a Level 3 discipline (5 days off) as a result of an injury suffered by him on August 24, 1995. Car. Exh. B.

The record shows that on August 24, 1995, Claimant tripped on an uneven walkway between two locomotives and injured his knee and wrist. Prior to his fall, Claimant grabbed at a safety chain, but the safety chain was flexible and was not adequate to break his fall. The record further reveals that at the time of the incident, the locomotives were on a curve which may have altered the normal walking path.

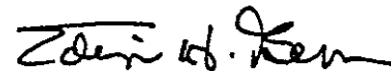
The burden rests with the Carrier to demonstrate substantial evidence to support the decision to discipline.

We cannot say that burden has been met. Although Claimant should have been hanging on to the locomotives, because of the configuration of the locomotives and the flexible safety chain, we are not satisfied by substantial evidence that Claimant violated any rule.

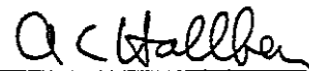
The discipline is rescinded and Claimant shall be made whole in all respects.

AWARD

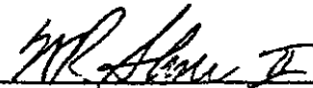
Claim sustained.



Edwin H. Benn
Neutral Member



Carrier Member
A. C. Hallberg



Organization Member
W. R. Slone II

Fort Worth, Texas

Dated: August 1, 1998