

PUBLIC LAW BOARD NO. 5959

Case No. 40
Award No. 40

Brotherhood of Locomotive Engineers	)	
vs	)	PARTIES TO
	)	DISPUTE
CSX Transportation, Inc.	)	

STATEMENT OF CLAIM

Claim on behalf of Engineer J.J. Harpham, ID 050198 for the reimbursement of all lost earnings commencing May 9, 1997 through August 6, 1997, expunge all charges and discipline from personnel record, and the recovery of all rights and privileges lost, if any, resulting from investigation held May 30, 1997 at 1037 hours in the Y.M.C.A., 302 Woodland Street, Willard, Ohio. Discipline assessed: Ninety (90) Days Actual Suspension.

FINDINGS

This Board finds the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction over the dispute involved herein. The parties to said dispute were given due and proper notice of hearing thereon.

On June 27, 1997 Claimant was suspended for 90 days as a result of an investigation held on May 30, 1997.

Claimant has over 30 years of service. The facts reveal that Claimant was working as engineer instructor on May 9, 1997 on Train Q136-08.

The Carrier has a 20 mile per hour speed restriction between Milepost BI 128.2 and Milepost 127.4. The record of the hearing shows Claimant's train upon approaching the speed restricted area was traveling at 45 mph and at Milepost BI 128.2 was going 32 mph. The record reveals that the engineer trainee was operating the train at the time. The Claimant was withheld from service pending the investigation.

The Organization argues that the Claimant was improperly withheld from service pending the investigation. Also, that Claimant did all that was possible to slow the train after realizing the trainee was operating too fast, and finally that the punishment was too harsh.

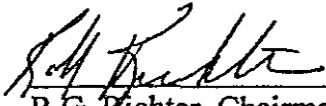
The facts reveal the train was speeding. The Claimant was responsible for the safe operation of the train even though the trainee was operating the train.

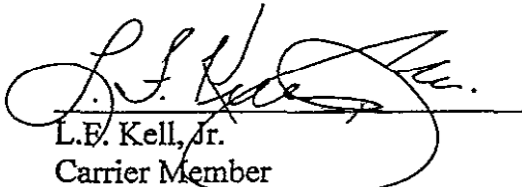
However, the Organization's point about being improperly removed from service pending investigation is well taken as has been explained by this Board innumerable times. Nevertheless, that does not exonerate the Claimant.

The 90 day discipline will remain on the Claimant's record, but Claimant will be paid for time lost beginning with the day of removal from service until June 27, 1997, the day the discipline was issued.

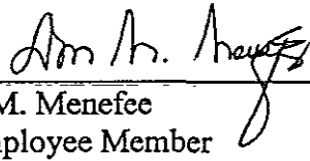
AWARD

Claim is sustained in accordance with the findings. Carrier is ordered to comply within 30 days of its date.


R.G. Richter, Chairman
Neutral Member


L.F. Kell, Jr.
Carrier Member

Dated 5/22/98


D.M. Menefee
Employee Member