

PUBLIC LAW BOARD NO. 6040

AWARD NO. 60  
NMB CASE NO. 60  
UNION CASE NO. Y-0007-98-451  
COMPANY CASE NO. 1108278

PARTIES TO THE DISPUTE:

UNION PACIFIC RAILROAD COMPANY

- and -

BROTHERHOOD OF LOCOMOTIVE ENGINEERS  
(Eastern District)

STATEMENT OF CLAIM: Claim of Engineer M. F. Fletcher of Denver, Colorado, for all pay for time lost and all entries of this discipline (UPGRADE Level 4) to be removed from his personal record.

OPINION OF BOARD: Denver Hub Engineer M. F. Fletcher ("Claimant") was assessed Engineer Fletcher was assessed an UPGRADE Level 4 discipline [thirty (30) days suspension without pay] on December 14, 1997, Following an investigation held in Denver, Colorado on December 29, 1997, Carrier found Claimant guilty of occupying the main track without proper authority by exceeding track warrant limits, while employed as an Engineer on CEYNX- 10 on December 13, 1997 at approximately 0840 hours. The Organization appealed the discipline on procedural grounds, asserting that Mr. Fletcher was not notified of the pending hearing until 11 days after the alleged incident, and also questioning the adequacy of the evidence against him.

Leaving aside the procedural aspect, our review of the record shows that Carrier failed to prove the charges by a preponderance of record evidence.. A review of the transcript reveals that Mr. Fletcher never received a copy of the Track Warrant from his Conductor, Mr. Simons. Under questioning, Conductor Simons admitted that he had "overlooked" giving a copy of the Track Warrant to Mr. Fletcher. Given the state of the record the claim is sustained.

AWARD

1) Claim sustained.

2) Carrier shall implement this Award within thirty (30) days of its execution by a majority of the Board.

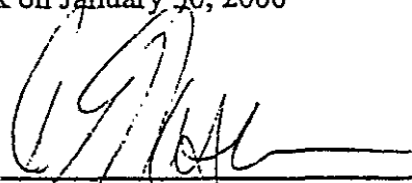


Dana Edward Eischen, Chairman

Dated at Spencer, New York on January 30, 2000



Union Member



Company Member