

PUBLIC LAW BOARD NO. 6301

**AWARD NO. 22
CASE NO. 22**

**PARTIES TO
THE DISPUTE:** Brotherhood of Maintenance of Way Employees
and
Kansas City Southern Railway Company

ARBITRATOR: Gerald E. Wallin

DECISION: Claim sustained in accordance with the Findings.

STATEMENT OF CLAIM:

An appeal in accordance with Rule 33, of the agreement between the Kansas City Southern Railway Company-Gateway Western Railway Company (KCS-GWRC) and its employees represented by the Brotherhood of Maintenance of Way Employees of the Investigation Officer, Mr. Paul A. Lobello's decision dated May 30, 2002 to dismiss KCS-GWRC employee C. W. Kelly, from service for alleged violation of Kansas City Southern System General Order No. 3.

We therefore request that Claimant Kelly be exonerated of all charges and reimbursed for all wage loss sustained as a result of the Carrier's actions.

FINDINGS OF THE BOARD:

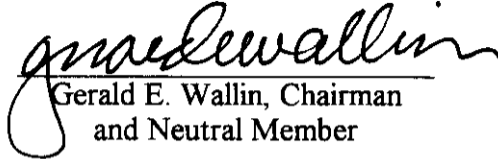
The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

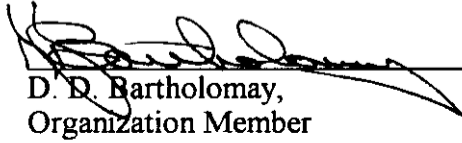
An investigation was held to determine Claimant's responsibility for a derailment on a bridge located at Louisiana, Missouri. Claimant was the bridge operator at the time. It was his duty to inspect and secure the bridge in proper alignment before permitting trains to cross it.

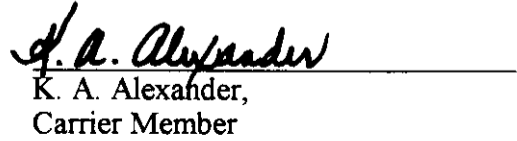
Simultaneously with the disciplinary process, Claimant retired from Carrier's employment with an otherwise clear record after some thirty years of service.

Review of the transcript of the hearing reveals proper support for Carrier's culpability determination. Under the unique circumstances of this record, the Board recognizes that the discipline has served its purpose and need not be retained in Claimant's employment files. The Claim, therefore, is sustained in part but only to the extent that references to the incident in question shall be expunged from Claimant's record.

AWARD: The Claim is sustained in accordance with the Findings.


Gerald E. Wallin, Chairman
and Neutral Member


D. D. Bartholomay,
Organization Member


K. A. Alexander,
Carrier Member

DATE: 2-10-03