

PUBLIC LAW BOARD 6942
Case No. 26

Parties to the Dispute: Union Pacific Railroad Company
and
United Transportation Union

Statement of Claim: Claim was filed by Yardman J.K. Altig, EID 0216767, as the result of the formal investigation held on April 21, 2005 for the removal of a 5-day suspension and Level 2 discipline. The Claimant requests pay, time lost and otherwise made whole.

Background: On March 29, 2005 at approximately 0900 hours the Claimant was employed as a RCO Foreman on job P02R. The Claimant's crew was working in Bowl 9 and failed to fully communicate with another crew. The failure to communicate resulted in a car running into the Claimant's locomotive causing approximately \$100 damage.

Carriers Position: Rule 7.2 clearly provides, "To avoid injury or damage where engines may be working at both ends of a track or tracks, crews switching must have a clean understanding of movement to be made." The violation is more serious than it first looks. The fact that the crew had completed their work does not relieve the crew from following proper procedure.

Organizations Position: The crew was not working because they had finished their work and were waiting for extraction. At the time of the incident the Claimant was at the foreman's desk and was in communication with the other crew, but not in control.

The penalty was harsh and arbitrary. The Claimant, with 29 years of service and a clean record, lost over \$1100 in light of approximately \$100 damage.

Findings: The crew was working in Bowl 9 at the time of the accident. It is true that they had completed work and were waiting to be extracted but they were still on the clock and expected to follow the rules and good railroad common sense.

This case is one of a preventable accident. An employee, under the supervision of the Claimant, released a car into the bowl while a crew was still there. The Claimant confuses good luck with good practice. All who were involved were lucky that no one was hurt or that there was not more damage done. Luck is not a defense.

While 29 years of good service is admirable it does not mitigate the mistake that was made. Level 2 discipline and 5 day suspension is appropriate based on the facts in this case.

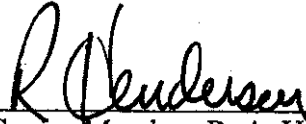
Award: The claim is denied.



Rex H. Wiant, Chairman and Neutral Member of the Board



Employee Member, R. M. Draskovich
Sr. Vice General Chairman



Carrier Member, R. A. Henderson
Assistant Director Labor Relations

Dated on May 30, 2006 in Kansas City, Missouri.