

PUBLIC LAW BOARD NO. 846

PARTIES) PORT TERMINAL RAILROAD ASSOCIATION
TO)
DISPUTE) UNITED TRANSPORTATION UNION (E)

STATEMENT OF CLAIM: Request that Engineer L. S. Flanery be paid all time lost, including time lost attending investigation, account alleged violation of Port Terminal Railroad Association Rules and Regulations No. 80, Second Paragraph, while on Job 355 on July 20, 1971.

FINDINGS: Public Law Board No. 846 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

The charge against Engineer Flanery is that when he began his job assignment No. 355 on July 20, 1971, engine was inspected and the yellow rotating safety light on top of the engine hood was in proper working order and working. Upon return of the engine at the expiration of the tour of duty on July 21, 1971, the yellow blinking light was inoperative and was destroyed. The Carrier charges deliberate vandalism.

The Organization contention is that the light was not functioning when the tour of duty was started.

Carrier evidence showed a specific check of the light immediately before the tour of duty began, and the safety light was in working order. This check was made because the safety light on one of the other engines was inoperative.

Organization was unable to submit any satisfactory explanation as to why Engineer Flanery would not know of the destruction of the light during his tour of duty if some outside source caused the destruction. Further, evidence shows that the destruction was far more extensive than that which might occur from some outsider throwing rocks at it or shooting at it. Finally, there was no showing by Organization of any circumstances under which a low clearance might have destroyed the light.


Engineer Flanery was given ten days suspension. Beginning in 1966, Engineer Flanery has four prior disciplinary suspensions, two of them three-day suspensions and two five-day suspensions.

Failing any adequate explanation for the destruction of the safety light by Engineer Flanery, who was in charge of the locomotive, and since the evidence establishes clearly the destruction took place during Mr. Flanery's tour of duty, the ten-day suspension is justified.

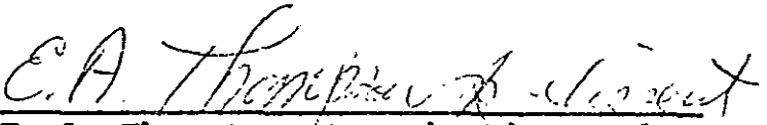
AWARD: Claim denied.



Jerre S. Williams, Chairman and Neutral Member



T. Minahan, Carrier Member



E. A. Thompson, Organization Member

September 16, 1972
Houston, Texas