

SPECIAL BOARD OF ADJUSTMENT NO. 928

AWARD NO. 146
NMB CASE NO. 146

PARTIES TO THE DISPUTE:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

- and -

NATIONAL RAILROAD PASSENGER CORPORATION

STATEMENT OF CLAIM:

Claim of Amtrak Passenger Engineer D. C. Noble for rescinding of all discipline imposed as stated in decision letter dated October 9, 1992, from Transportation Superintendent Washington Division W. M. Browder; and equally, the discipline imposed by letter dated, October 9, 1992, under the signature of T. C. James, CSXT. Restoration claimed is to include seniority and vacation rights unimpaired, full compensation for lost time, full credit toward vacation entitlement and health and welfare benefits during the period held out of work, and the expunging of this incident from Claimant's personal record.

Outline of Alleged Offense

Your alleged violation of the following CSXT Operating Rules: 34, 34A, 102, 234, 292, 411, 561 and 562. In that, on Thursday, August 27, 1992, you were assigned as engineer on train number 89 which passed a signal displaying STOP at the SEDT at Halifax, North Carolina while this train was operating southward on number 1 track at MP A 88.9, resulting in damage to track and equipment.

OPINION OF BOARD:

At the time of the incident precipitating this case, Claimant held a Passenger Engineer position in Washington, DC, assigned in road service. While operating as the Passenger Engineer on Amtrak's Train No. 89, on August 27, 1992, the train passed through a stop signal at Halifax, North Carolina (MP 88.9), causing damage to both signal and equipment. By letter dated August 31, 1992, Claimant was charged with his alleged violations of CSXT

Operating Rules 34, 34A, 102, 234, 292, 411, 561, and 562, as a consequence of the incident. Because he was charged with violation of CSXT Operating Rules, that carrier presided over the formal investigation.

Following an investigation held on October 1, 1992, CSXT Division Superintendent T. C. James advised Amtrak Transportation Superintendent W. M. Browder of CSXT's finding of guilt, and recommended that Claimant be dismissed from Amtrak's service. Mr. James also informed Mr. Browder that Claimant was barred from operating over any and all tracks and properties owned or controlled by the CSXT. By letter of October 9, 1992, Carrier notified Claimant that he would not be terminated from service but, rather, would be assessed a thirty day actual suspension. The Organization appealed the discipline and the claim was subsequently progressed in the usual manner.

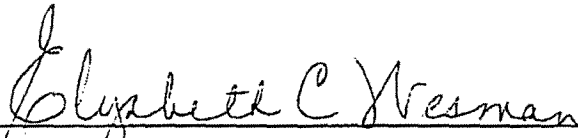
At the outset, the Organization has maintained that Claimant was not afforded a fair and impartial hearing. A careful reading of the transcript in this case provides the Board with no evidence to support that procedural objection.

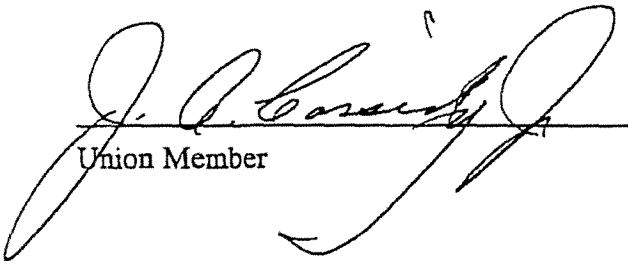
With respect to the merits of the case, Claimant admitted on the record (Tp. 128-129) that the signal at Halifax was red, and that his train passed the signal. Furthermore, he did not suggest that the signal was in any way difficult to see. In light of Claimant's admirably honest testimony and his clean personal record, Carrier's assessment of a thirty-day suspension is neither unreasonable nor arbitrary. The only remaining issue is Claimant's bar from CSXT trackage. While Carrier did not have the ability to force CSXT to accept the discipline it imposed upon Claimant as sufficient, it did petition Amtrak to lift the bar placed against

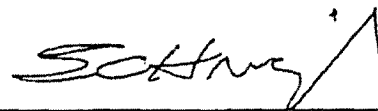
Claimant. The bar was lifted effective March 1, 1993. The result of the bar was that Claimant did not work for the six months until it was lifted. However, this Board has no jurisdiction to, nor is there any demonstrated precedent for requiring either Carrier or CSXT to make restitution to Claimant for the additional five month's of work Claimant may have missed as a result of the bar by CSXT.

AWARD

Claim denied.


Elizabeth C. Wesman, Chairman


Union Member


Company Member

Dated 6-10-98