

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 125
Award No. 125

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

and

Norfolk Southern Railway Company
Norfolk and Western Railway Company, et al.

STATEMENT OF CLAIM:

Claim of Lake Division, Columbus District Engineer M. L. Kelly, requesting discipline be set aside and he be reimbursed for all lost time in connection with Train L36 traversing track number 1 switch while that switch was improperly lined on March 23, 1995 resulting in damage to said switch.

OPINION OF BOARD:

On March 23, 1995, Claimant was assigned as Engineer on Train L-36, which was scheduled to make switching moves on the Heavy side of Watkins Yard, Columbus, Ohio, and prepare a train for delivery to industries at Discovery Park. About 10:30 p.m., Train L-36 moved to the east-end of Track 2, stopped to clear No. 1 lead switch, which the Conductor allegedly lined up for movement of Train L-36 out of Track 2. The Conductor's testimony corroborates Claimant's version of the facts.

In the meantime, Train 147 entered Watkins Yard in a westward direction at about 2:00 a.m., March 24, 1995, when the lead locomotive derailed. Upon investigation, Carrier officials concluded the last train operating over the switch was L-36. They reasoned the accident occurred because No. 1 lead switch had previously been run through. A schematic diagram was prepared and introduced at the trial to bolster this theory. Following a formal investigation, Claimant was assessed fifteen (15) days deferred suspension.

It is not clear how Claimant's culpability was established by the facts outlined, when he was following the signal indication passed to him by another employee. There is a lot of speculation but no hard facts to support the conclusion. The record is tenuous concerning Claimant's guilt, so the claim is sustained.

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FINDINGS:

The Agreement was violated.

AWARD:

Claim Sustained.

ORDER:

The Carrier will place the Award into effect within thirty (30) days of the effective date.

Dated at Norfolk, Virginia, this 16th day of February, 1996.

W. F. Euker
W. F. Euker, Neutral Member

K. J. O'Brien
K. J. O'Brien, Carrier Member

P. T. Sorrow
P. T. Sorrow, Organization Member