

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 363
Award No. 363

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

and

Norfolk Southern Railway Company

STATEMENT OF CLAIM:

Claim of Virginia Division Engineer J. W. Clendenen for the removal of 15-day actual suspension and pay for all time lost due to allegedly exceeding 30 MPH between MP N274 and N280 on January 2, 2000.

OPINION OF THE BOARD:

The Claimant Engineer J. W. Clendenen was charged with speeding when he allegedly exceeded the speed limit between M.P. N274 and N280 on January 2, 2000, while operating Train 112 V502. Relying on the evidence and testimony of witnesses at the trial, Claimant was assessed fifteen days actual suspension.

The record reveals the Claimant was leaving Roanoke Terminal, but was required to stop at Union Station because one of his units malfunctioned. The facts subsequently showed Claimant's train was cut, without his knowledge, during the time of the layover at Union Station and nineteen cars were left at the station when Claimant departed for Walton, Virginia. The record is vague on when Claimant lost continuity between head-of-train (HOT) and end-of-train (EOT) device, although the Carrier's witness states it is considered "failed", if loss en route is in excess of sixteen minutes and thirty seconds. According to testimony of the same witness, train speeds must not exceed thirty miles per hour if a two way device fails en route.

There was a great deal of speculation as to when continuity was lost between HOT and EOT, but little in the way of hard evidence. We may suppose that Claimant should have been aware a portion of his train remained in Union Station, although, when found, it appears the miscreant making the unlawful cut had closed the angle cocks, so the air in the train line was intact.

We believe the evidence presented in this case was light on proof and heavy on conjecture, so we will sustain the claim.

FINDINGS:

The agreement was violated.

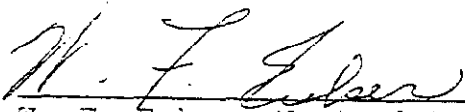
AWARD:

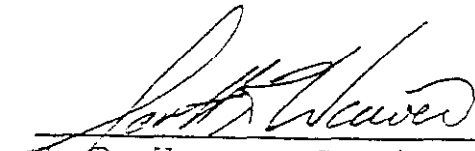
Claim sustained.

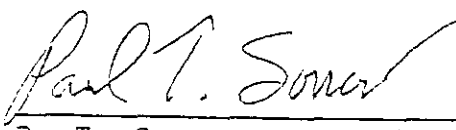
ORDER:

The Carrier shall put this award into effect within thirty (30) days of this date.

Dated at Norfolk, Virginia, this 30th day of April, 2001.


W. F. Euker, Neutral Member


S. R. Weaver, Carrier Member


P. T. Sorrow, Organization Member