

NATIONAL MEDIATION BOARD

SPECIAL BOARD OF ADJUSTMENT

NO. 997

CONSOLIDATED RAIL CORPORATION

-VS-

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DOCKET NO. CRE 119854-D
CASE NO. 97

CLAIMANT: L.F. Cornelius

FOR THE CARRIER: S.R. Friedman, ~~Assistant~~ Director
Labor Relations

FOR THE ORGANIZATION: Robert Godwin, General Chairman
BLE

NEUTRAL: Dr. James R. McDonnell

OUTLINE OF OFFENSE

"Your failure to comply with Dearborn Division Bulletin Order 5-S73, paragraph Y, item 8, on October 19, 1997, when your train, BRSE-9, was not equipped with an operational two-way end of train (EOT) device, yet, was operated at speeds in excess of 30 mph at several locations between Chicago, IL and Elkhart, IN and at approximately 2:28 p.m., CST, in the vicinity of Chicago Line MP 493, reached a peak speed of approximately 53 mph."

FINDINGS OF THE BOARD

The Board, after hearing the whole record and all evidence finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by agreement and has jurisdiction of the parties, claim and subject matter which was held on May 18, 1999 in Jacksonville, Florida. The Board makes the following additional findings:

DECISION

After a careful reading of the evidence presented, the Board agrees that the Claimant was guilty of excessive speed.

The Board takes note of one factor which it believes is a mitigation and must have an impact on the level of penalty.

On pages 13 14 of the investigation transcript there is an exchange concerning the amount of training provided to engineers regarding the devices in question.

Language from the Agreement between the parties says in Article G-s-12 Engineer Manning:

"If a new type of locomotive power which has not previously been used on the lines of the Corporation is placed in service, engineers shall be instructed in the operation of the new type of locomotive power and used to operate it."

The Board believes that the Carrier failed to give adequate training in the matter. To this extent, there is a shared responsibility involved.

For this reason, the Board believes that a 30 day suspension is excessive and therefore makes the following Award.

AWARD

The 30 day suspension shall be reduced to 15 days. The Claimant shall be made whole for the difference.

SR Friedman - DISSENT
S.R. Friedman, ~~Assistant~~ Director
Labor Relations

Robert W Godwin
Robert Godwin, General Chairman
BLE

James R. McDonnell
Dr. James R. McDonnell
Neutral

October 22, 1999
Date

jdm