

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 220
Award No. 220

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 Engineer J. H. Walker, Sr. for removal of thirty days deferred suspension and pay for all lost time assessed for failure to have Michigan Sugar switch properly lined for movement which resulted in damage to the switch on November 7, 1994.

OPINION OF BOARD:

Claimant was assigned as Engineer on Crew L26, which was engaged in switching cars at the west end at Fremont, Ohio, when the crew ran through a switch not lined for their movement, damaging the switch. The explanation given by the investigating official was to the effect, Claimant stated he could not see the switch or the banner because of the intense sun glare. The Claimant asserts he asked for a shield for the window but was afforded no relief. We have found no refutation of this assertion in the record. The Carrier's position was that Claimant should have stopped the movement, if the switch or switch points were not visible.

In our opinion, Carrier's solution is the correct one, although we believe there were some extenuating circumstances, so we will reduce the discipline to fifteen (15) days deferred, from the thirty (30) days imposed.

FINDINGS: The Agreement was violated.

AWARD: Claim disposed of on the basis of the Opinion.

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

Dated at Norfolk, Virginia, this 3rd day of December, 1997.

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

Carrier File: OE-TOLP-95-1
Org. File: OE-TOLP-95-1