

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 260
Award No. 260

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 F. E. Allen for removal of ten days deferred suspension and pay for all lost time assessed for persisting in unsafe work practices by failing to properly inspect passing Train M80 on April 24, 1997.

OPINION OF BOARD:

Claimant Engineer was working on Train L52 on April 24, 1997, at the moment it met Train M80 in the area of Milepost N675. A Carrier official was conducting efficiency checks and noted Claimant's crew was not on the ground on the opposite side of M80 when it passed. The Claimant was subsequently charged and found guilty of failing to properly inspect Train M80 in accordance with applicable rules and assessed ten (10) days deferred discipline.

The claimant's involvement in this incident resulted from his alleged failure to ensure that one of the two train crew members stationed themselves on the opposite side of the approaching train, in order to inspect it in accordance with Rule GR-9. The clarity, reasonableness and necessity for compliance with Rule GR-9 is not in issue so it would appear unnecessary to quote its provisions at this time. Furthermore, the incident in question does not pertain to Claimant's "on board" observation of Train M80, but only the alleged failure of any crew member to alight and make an inspection from the opposite side of Train M80.

In our opinion, Claimant has done his part when he reminded other personnel on the front end that M80 was approaching and indeed, the Conductor agreed he was the one responsible for failing to instruct the brakeman, or in the alternative, failing to assume the position himself, in order to observe the passing train.

Under the circumstances outlined in the trial record, we are satisfied the Claimant was not remiss in the performance of his duties, therefore, the claim is sustained.

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 8th day of September, 1998.

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

S. R. Weaver
S. R. Weaver, Carrier Member

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