

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 24850

Docket No. 44494

97-1-96-1-II-1862

The First Division consisted of the regular members and in addition Referee Marvin F. Hill, Jr. when award was rendered.

(Brotherhood of Locomotive Engineers
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company (former Missouri
(Pacific Railroad, Upper Lines)

STATEMENT OF CLAIM:

“Claim of Engineer R. P. Bernsen for payment for all time lost associated with his thirty (30) day suspension and attendance at the investigation, as well as to make him whole for all other contractual rights, and clearing of Claimant’s record.”

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimant was the engineer on Train LSV52-21 on September 21, 1994, and at approximately 2:30 p.m., was unable to stop his train before passing a red signal at Piedmont, Missouri, by approximately three quarters of an engine length. According to the Claimant, on the day in question he applied both the air brakes on the train as well as the locomotives, placed the train in emergency, and then reversed the engines.

but was unable to stop the train short of the signal. Claimant averred that there was something wrong with the air brake system. The Manager of Train Operations testified that Claimant's train had been properly controlled up to the passing of the signal. The engineer who relieved Claimant corroborated Claimant's testimony of braking problems. A leakage test was unable to confirm that leakage was within prescribed limits. A "walking inspection" of the train was not performed.

There is insufficient evidence in the record that Claimant failed to properly perform his duties or was otherwise negligent in the operation of his train. See First Division Award 23830 ("at no time did Carrier show how or why Claimant's handling was improper or how it impaired the operation of the train.").

This claim will be sustained. Claimant's record is to be cleared, and he is to be made whole for the 30-day suspension.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Dated at Chicago, Illinois, this 2nd day of October 1997.