

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 24875

Docket No. 44539

98-1-96-1-U-1893

The First Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(Brotherhood of Locomotive Engineers

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"Claim of Engineer S. P. Grate for reinstatement and removal of notation of this discipline from his employment record and compensation for all lost time pursuant to investigation held May 18, 1995, for his alleged violation of Carrier Rules 1.6, Item 1, and 9.5 and Timetable Special Instruction item 17, 245P."

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.

Prior to his dismissal from service, Claimant held the position of Locomotive Engineer, a position he had held for only five months. Before being assigned as an Engineer, Claimant had 17 years of service with Carrier, and a clean discipline record. He was dismissed from Carrier's service following an incident in which the train on which he was engineer passed a red block and collided with the rear end of a train ahead

of it. Claimant and the conductor initially slowed the train down, and then put it into emergency, but there was insufficient distance in which to stop the train short of collision. The conductor was also dismissed.

There can be no question that Claimant shares responsibility for the accident. Questions raised at the hearing and in subsequent correspondence, however, suggest that in light of his prior record and long years of service with Carrier, the ultimate penalty of dismissal is excessively harsh. Moreover, in the companion case, Award 51 of Public Law Board No. 5613, the Board reduced the conductor's discipline from discharge to a 60-day suspension.

In light of the foregoing, and in view of Claimant's position as Engineer, we will allow all parts of the claim except for pay for time lost for 90 days.

AWARD

Claim sustained in accordance with the Findings.

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 5th day of February 1998.