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**NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION**

Award No. 24965

Docket No. 44679

98-1-97-1-U-1993

The First Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Locomotive Engineers  
(Union Pacific Railroad Company

**STATEMENT OF CLAIM:**

“Claim of Engineer T. P. Spoon for removal of Level 1 Discipline under the Carrier’s unilaterally imposed ‘UPGRADE’ discipline policy and all lost time associated therewith including time spent at the investigation.”

**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.

On August 12, 1996, Claimant was assigned as Engineer on LSS63-12, a local freight out of North Little Rock, Arkansas. The Train Dispatcher advised the train crew that the local would take the siding at Crawfordsville while two trains passed. The local took the siding and waited for the trains to pass. After about ten minutes, the first

train came by. A Carrier official was in the area to observe the efficiency of the local train crew. It appears from the record that neither the Conductor nor the Brakeman got off of the train to perform a roll-by inspection of the passing train. The Carrier official spoke to the train crew about this Rule infraction. During that conversation, he asked Claimant if he had instructed the crew of their responsibility to inspect the passing train. The record reveals he did not. As a result of the incident, the train crew was disciplined and the Engineer charged with a violation of Carrier Rule 1.47.

**“C. Conductor and Engineer Responsibilities**

1. Conductors and engineers must ensure that their subordinates are familiar with their duties, determine the extent of their experience and knowledge of the rules, and instruct them, when necessary, how to perform their work properly and safely.”

Carrier has interpreted Rule 1.47 C.1 to mean that the Engineer in this instance was responsible for saying something to the train crew about getting on the ground and observing the passing trains. The Engineer was aware and the crew was aware that they were required to do so.

The Board, based on the record before it, cannot find fault with Carrier's interpretation and application of the Rule in question. The discipline imposed was not arbitrary or capricious and the Board has no basis for modifying it.

**AWARD**

Claim denied.

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**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of First Division

Dated at Chicago, Illinois, this 21st day of December 1998.