

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION**

Award No. 25272

Docket No. 44951

01-1-00-1-U-2161

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

(Brotherhood of Locomotive Engineers

**PARTIES TO DISPUTE:** (

(Union Pacific Railroad Company

**STATEMENT OF CLAIM:**

"Claim of Student Engineer D. S. Young (CNW) Eastern Seniority District No. 1, for full compensation for all time lost including the time spent at the investigation and that all record of this incident be removed from claimant's personal record when he was required to appear for an investigation on the following charge:

'failure to comply with Rule 6.27 of the GCOR, while operating as crew member on ASMT 28, March 2, 1997, at approximately 0720 hours, at about MP 114 on the Geneva Sub., resulting in collision with APLAD 01.'

Subsequent to the investigation, Student Engineer Young was issued a Level 4.5 on the Union Pacific Discipline System of (Upgrade). A Level 4.5 equates to a 60 day suspension. The suspension began on March 2, 1997. Claim premised on UTU-E Rule 41."

**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 May 28, 1999, the Carrier assessed the Claimant with a level 4.5 discipline, a 60-day suspension, as a result of an Investigation. The Carrier found that the Claimant violated Rule 6.27 on March 1, 1997.

The record reveals that the Claimant was working as a student engineer on Train ASMT. At approximately 7:20 A.M. at MP 114 the train collided with APLAD 1. The Claimant was not operating the train. The regular assigned engineer was running the train. The Claimant was sitting in the conductor's seat with the Conductor sitting behind the Claimant. On the date in question Train ASMT was operating under restricted speed. The crew knew there was a train ahead of them, and the weather was heavy fog.

While the Claimant was a student Engineer, he had had over three years of experience as an operating employee and was a promoted Conductor. The record proves the train was being operated too fast for conditions. Both the Conductor and the Claimant were assessed 60-day suspensions, the Engineer resigned and did not testify at the Investigation. In Public Law Board No. 5137 Award 101 the arbitrator reduced the Conductor's discipline to a 30-day suspension without dissent of the Carrier.

Of the three crew members, the Claimant was the only person who was on the job to learn. The Claimant was there to learn train handling. However, that does not excuse the Claimant from seeing that the Rules are complied with. But the Claimant's responsibility was no more than that of the Conductor. Accordingly the Board finds the discipline to be excessive and will reduce the suspension to 30 days.

#### AWARD

Claim sustained in accordance with the Findings.

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**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 18th day of October, 2001.