

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 25352

Docket No. 45130

02-1-01-1-I-1660

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

(Brotherhood of Locomotive Engineers
PARTIES TO DISPUTE: (
(Illinois Central / Canadian National Railroad

STATEMENT OF CLAIM:

“Claim of CN/IC Engineer L. R. Danenhower for the removal of thirty (30) days’ suspension for the alleged violation of CN/IC Operating rule 521 in connection with his allegedly failing to properly inspect the passing of I02-25, Engine 6201 at Neoga, Il. at approximately 0615 hours on May 26, 2000 while working as Engineer on train I05-26.”

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 L. R. Danenhower is employed by the Carrier as a Locomotive Engineer. On May 26, 2000, he was assigned as Engineer on I05-26 scheduled to depart the Yard at Champaign, Illinois, at 4:40 A.M. The Claimant’s train met Amtrak Train No. 58 and CN/IC Train I02-25 at Neoga, Illinois. The Claimant’s train was in the siding at Neoga when Train No. 58 and I02-25 went by. The Company’s Supervisor of Locomotive Engineers was riding in the cab of the engine on Train I02-25. The

Form 1
Page 2

Award No. 25352
Docket No. 45130
02 1 01 1 I 1660

Supervisor contends that when I02-25 passed the Claimant's train, he saw the Claimant's train stopped and the Claimant in the cab of his engine. The Supervisor concluded that the Claimant was in violation of Rule 521-Inspecting Passing Trains:

"Employees must inspect passing trains. When a train stops to let another train meet or pass, crew members on the head end must inspect the passing train from the ground. . . ."

As a result of this incident, the Claimant was notified on May 30, 2000, as follows:

"Arrange to attend a formal investigation to be held in the conference room of the Mattoon Yard Office, 1920 Marion, Mattoon, Illinois at 1000 hours, Monday, June 5, 2000, to determine the facts and your responsibility, if any, in connection with your failure to properly inspect the passing of I02 25 Engine 6201 at Neoga, Illinois, at approximately 0615 hours on May 26, 2000, while you were crew members on train I05-26.

You may arrange for representation in accordance with your schedule agreements and you may produce witnesses as you desire at your own expense.

A synopsis of your personal record file may be reviewed at this investigation."

The Hearing in the matter was held on June 28, 2000, in the Mattoon, Illinois, Yard Office. As a result of that Hearing, the Claimant was found guilty as charged and assessed a 30-day Suspension. A copy of the transcript of the Hearing has been made a part of the record before the Board. A review of that record persuades the Board that the Claimant was in violation of Rule 521-Inspecting Passing Trains. It also reveals that the Claimant received a full and fair Hearing and was granted all rights due him under the current Agreement. The Board, however, based on the total record, has concluded that a 30-day Suspension is a far more severe penalty than is justified in this case. The Board therefore directs that the Claimant's suspension be reduced from 30 to ten days and that he be paid for all lost time and benefits beyond the ten-day suspension.

Form 1
Page 3

Award No. 25352
Docket No. 45130
02-1-01-1-I-1660

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 6th day of August 2002.