

PUBLIC LAW BOARD NO. 3304

Case No. 382
Award No. 347

PARTIES TO DISPUTE:

UNITED TRANSPORTATION UNION

-and-

BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim of Illinois-Wisconsin (LaCrosse) Seniority District Conductor T.E. Young for removal of censure from his personal file and pay for all time lost as a result of an investigation held on October 30, 1992.

FINDINGS:

This Board, upon the whole record and all the evidence, finds as follows:

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and employees within the meaning of the Railway Labor act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

On August 17, 1992, the Claimant and Engineer P.M. Hansen were operating Train No. 101 from Cicero, Illinois to LaCrosse, Wisconsin. The C&I Train Dispatcher instructed them to enter the siding at Chadwick, Illinois to meet Train No. 110. It turned out that they actually met a total of four (4) trains and were in the siding from 5:55 A.M. to 7:00 A.M. While they were in the siding for one (1) hour and five (5) minutes, Train No. 101 blocked a crossing on Main Street in the Village of Chadwick. The Claimant did not cut the crossing.

On September 16, 1992, the Trainmaster in Aurora, Illinois received a telephone call from a Burlington Northern attorney in Chicago advising him that the Carrier had received a summons from the Circuit Court of Illinois in Carroll County to appear in court on September 22, 1992, to answer a complaint that one of its trains had obstructed a highway grade crossing in the Village of Chadwick, Illinois on August 17, 1992. Illinois and Wisconsin

State Law prohibit a crossing from being blocked longer than ten (10) minutes. This was the first time the Carrier was aware of this reputed incident. The Burlington Northern was fined \$2500 for blocking the crossing and was assessed \$15 in court costs.

Following a hearing held on October 30, 1992, the Claimant and Engineer Hansen were suspended from service for ten (10) days allegedly for blocking the highway crossing in Chadwick for one (1) hour and five (5) minutes. Trainmaster's Notice No. 3-92 issued on January 1, 1992, provides that when meeting trains, road crews must determine the number of trains to be met and if a crossing will be blocked longer than ten (10) minutes, they must cut the crossing. It is the Carrier's position that the Claimant and Engineer Hansen willfully blocked the crossing on Main Street in Chadwick for one (1) hour and five (5) minutes contrary to Trainmaster's Notice No. 3-92 and Illinois State Law by failing to cut the crossing obstructed by their train.

Despite the Carrier's opinion, this Board is not convinced from the evidence adduced at the October 30, 1992, hearing that the Claimant willfully blocked the road crossing in Chadwick for one (1) hour and five (5) minutes. It is instructive to note that when they entered the siding at Chadwick, the Claimant and Engineer Hansen were told by the C&I Train Dispatcher that they would be meeting one (1) train, Train No. 110. Train No. 110 passed yet Train No. 101 did not receive a signal to leave the siding.

After Train No. 110 passed, Engineer Hansen learned from monitoring the radio in the cab of the engine that additional trains would be passing. However, the C&I Train Dispatcher never contacted him to tell him precisely how many trains they would meet. Engineer Hansen attempted to contact the Dispatcher but was unable to do so. After the third train passed the siding, the Dispatcher informed Engineer Hansen that one more train would pass then they could leave the siding.

Because of poor communications from the C&I Train Dispatcher, Claimant and Engineer Hansen did not know how long they would be in the siding at Chadwick to allow trains to pass. The Claimant stated that if he realized they would be in the siding to meet four (4) trains he would have cut the road crossing on Main Street in Chadwick. At one point he started to walk back to the crossing but Engineer Hansen told him to return since the train would be departing. It should be noted that the Claimant was on the ground while Train No. 101 was in the siding and had no way of communicating with the Dispatcher.

In the light of all these circumstances, this Board is convinced that the Claimant did not willfully ignore Trainmaster's Notice No. 3-92 or Illinois State Law. Rather, because of inadequate information from the C&I Train Dispatcher,

the crew of Train No. 101 had no way of knowing how long they would be required to remain in the siding at Chadwick. Initially, they entered the siding to meet one (1) train which passed them within ten (10) minutes. Of course, there would be no need to cut the crossing for this meet. Had the Dispatcher advised the crew that they would meet three (3) additional trains while in the siding the Claimant would have cut the crossing. He did not cut the crossing on Main Street in the Village of Chadwick since he had no way of knowing how long his train would be in the siding. In view of these circumstances, the discipline assessed the Claimant was unjustified and must be set aside as a result.

AWARD: Claim sustained.

Carrier is directed to make the
within Award effective on or before
thirty (30) days from the date hereof.

Robert M. O'Brien
Robert M. O'Brien, Neutral Member

W.T. Pearl
W.T. Pearl, Employee Member

R.L. Luther
R.L. Luther, Carrier Member

Dated: JUNE 14, 1995