

Award No. 516
Case No. 516

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)	
)	
vs.)	Parties to Dispute
)	
UNION PACIFIC RAILROAD COMPANY)	

STATEMENT OF CLAIM:

Claim in behalf of Engineer M. L. Moore, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all time lost including time spent at the investigation and this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility in connection with your failure to be available for call at approximately 1:00 a.m. Sunday, April 17, 1988, for Train DMKAA, on duty at 3:30 a.m. while you were assigned to the Engineers' South Pool at Des Moines, Iowa."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that the

Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant Engineer was found responsible for failure to be available for call from the inactive list. He was disciplined with five (5) days suspension.

The transcript of investigation shows that a call rule for not less than two (2) hours was in effect. Claimant was not available when called fifteen (15) minutes before the two (2) hour limit.

The record indicates sufficient effort was made to call Claimant although it is controversial as to whether the last attempt was as near to two (2) hours as it should have been. Of greater concern to the Board is the uncontested statement by the Employees that a witness, who was a supervisory employee, told Claimant at the end of the investigation that he would get five (5) days suspension. A witness should have one

function only and not perform duties of a judge and jury. The discipline here must be set aside.

AWARD

Claim is sustained.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. H. Isaac Arthur
Employee Member

W. G. Bengala
Carrier Member

D. Peck
Chairman and Neutral Member

Dated: Feb 20, 1998