

Award No. 530

Case No. 530

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 G. W. Webster, South Morrill, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility for your failure to properly perform your duties in a safe manner resulting in a personal injury to yourself in the vicinity of Milepost 5269 (Shawnee Junction) at approximately 0645 on October 6, 1994 while you were assigned as Engineer on the 8703 West (PQRMX031) on duty South Morrill, Nebraska at 0015, October 6, 1994."

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 received a personal injury when he slipped on paper debris in one of his locomotive units. Following a disciplinary investigation, he was found responsible for failure to perform his duties in a safe manner. Discipline assessed was five (5) days suspension.

The instant case is similar in all pertinent respects to that described in First Division Award No. 24210. In that case it was stated as follows:

"Since the effective date of the Discipline Policy, Claimant had received two Letters of Review, which are not considered discipline, but had not received a Letter of Warning. Thus, he had not been put on notice that he was subject to the discipline system, as provided in paragraph (a) above. Furthermore, we cannot find that Claimant's conduct meets the standards set forth in paragraph (b), which would permit the Carrier to assess a five day suspension upon an employee who had not already received a Letter of Warning. While his conduct may have been negligent, it was not of such a serious nature that it would warrant discipline under this provision.

Accordingly, we will direct that the discipline imposed upon Claimant be reversed and that Claimant be issued a Letter of Review. Carrier is further directed to compensate Claimant for all time lost."

The Board adopts these findings in this dispute.

AWARD

Claim is sustained in accordance with the above.

ORDER

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

B. L. Ivan Arthur
Employee Member

W. B. Brouder
Carrier Member

J. Bach
Chairman and Neutral Member

Dated: Feb 20, 1998