

Award No. 541

Case No. 541

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 D. W. Bolt, 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 in connection with your failure to immediately report a collision on the Proviso Hump between Assignment No. 32 and Assignment No. 33 on January 23, 1989 at 5:50 PM, while employed on Assignment No. 32 and CRO Position Nos. 38, 39, and 49 and Hump Assignment No. 33."

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 in connection with failure to immediately report a collision on the Proviso Hump while working Assignment No. 32. The discipline assessed was five (5) days suspension.

The essential facts are that Claimant was working a hump job when his engine was struck by four (4) cars from another assignment. The impact did not derail any equipment and there was no damage to equipment or injury to persons. No one reported the incident until Claimant wrote a letter to supervision the next day complaining about radio problems in connection with the episode. Claimant was then charged with failure to immediately report a collision.

There was discussion during the investigation of whether "collision" was the proper word to describe what the employees believed was nothing more than a hard coupling.

The Board finds that what occurred was not a "serious" matter as described in the C&NW Discipline System. The four

(4) cars were in the wrong place but they were not the responsibility of the accused engineer. Obviously not every hard coupling is reported immediately to supervision and the accident report instructions do not entirely fit the facts in this case. Under the precedent of First Division Award 24231, the suspension is set aside and substituted therefor a "Letter of Review" shall be placed in Claimant's service record.

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. Isaac Arthur
Employee Member

W. J. Donelan
Carrier Member

H. J. Kelly
Chairman and Neutral Member

Dated: 3-20-98