

Award No. 593  
Case No. 593

PUBLIC LAW BOARD NO. 5383

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

STATEMENT OF CLAIM:

The Brotherhood of Locomotive Engineers Union Pacific, former Chicago and North Western request the Division compensate Engineer G. R. Thomas for all time lost including time spent at the investigation and that this incident be removed from Claimant's personal file when he was investigated on January 9, 1981 regarding the following charge:

"Your responsibility in connection with your failure to protect your assignment when you missed a call to deadhead to Nelson at 3:00 A.M. on December 23, 1980, while you were assigned to the Engineers pool at South Pekin, Illinois."

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 protect his assignment. He was disciplined with thirty (30) days suspension which activated sixty (60) days deferred suspension from a previous incident.

The Board finds that the claim must be allowed under an application of Rule 41 regardless of merit. The applicable language reads:

"Investigations shall ordinarily  
be held within three days."

This Board has previously held that some reason must be advanced if the time limit in this rule is not observed. It cannot be ignored. In the instant case the event occurred on December 23rd and the charge letter was postmarked December 29th, which obviously put the investigation past the limit. The Carrier said nothing to show compliance with the rule, in view of which we have no alternative but to sustain the claim as presented.

**AWARD**

Claim is sustained.

ORDER

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

B. L. Inman  
Employee Member

W. J. Bynum  
Carrier Member

J. K. Kelly  
Chairman and Neutral Member

Dated: 5-22-88