

Award No. 598

Case No. 598

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 J. H. Ness 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 June 26, 1989 regarding the following charge:

"Your responsibility for delay to your train; specifically, for stopping your train at Little Lake, Michigan from 10:41 p.m. until 10:45 p.m., May 24, 1989, while employed as crew members of EPESS commencing duty at 2:00 p.m., May 24, 1989, CDT."

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 delay to his train and he was disciplined with five (5) days suspension.

The transcript of investigation indicates that the train was stopped at White Lake for more than an hour whereas the charge letter indicates the period was only a few minutes. Regardless of this discrepancy, the Board finds that the evidence developed is too nebulous to support the Carrier's decision. It is noted that a Trainmaster at White Lake said he did not take exception to the time the train was stopped for the crew's lunch. Also, certain answers to important questions are shown as "inaudible".

The claim will be sustained on the premise that insufficient evidence was developed to support the charge.

AWARD

Claim is sustained.

ORDER

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

B. D. Lane Arthur
Employee Member

R. J. Gonzalez
Carrier Member

B. Keck
Chairman and Neutral Member

Dated: 5-22-98