

PUBLIC LAW BOARD NO. 5392

PARTIES)
TO)
DISPUTE)

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM

Claim of Engineer H. F. Pursley, ID# 162712, for removal of all notations on his personal record and pay for all time lost, associated with the discipline assessed (dismissal) by Carrier on February 18, 1998, as a result of an investigation conducted on January 20, 1998, in connection with a report of Train Q-19411 passing an absolute signal displaying stop without authority in December 11, 1997.

OPINION OF BOARD

Claimant was dismissed by letter dated February 18, 1998 for passing an absolute signal displaying stop without authority at milepost SG-561.0, north end Tucker, Georgia at approximately 1320 hours, December 11, 1997.

The record shows that Claimant and Conductor J. R. Foster were operating northbound on the Abbeville Subdivision Main Track approaching Tucker, Georgia. As the train approached South Tucker, Claimant

observed and called an approach signal indication. Conductor Foster called an approach and then called a clear indication. Given the curving track configuration, the signal disappeared from Claimant's line of sight.

Approximately one-half mile past the signal, Claimant asked Conductor Foster to confirm the prior signal. Foster replied that the signal was clear. As the train approached North Tucker, Conductor Foster observed a stop indication and called that display to Claimant. Claimant was able to stop the train before going through an improperly aligned switch. However, the train went past the stop.

Substantial evidence does not support the Carrier's decision to discipline Claimant. Given his line of sight, Claimant relied upon Conductor Foster's calling of the signals and even asked Foster to verify the South Tucker signal. Given Conductor Foster's unequivocal

cal response that the South Tucker signal was clear and Claimant's line of sight, it was not unreasonable for Claimant to have relied upon the Conductor's information, particularly when Claimant had Conductor Foster verify that information. Under the circumstances, Claimant cannot be held responsible for running past the stop at North Tucker.

The claim will be sustained. The discipline shall be rescinded. Claimant shall be restored to service and made whole in all respects.

AWARD

Claim sustained.

Edwin H. Benn

Edwin H. Benn
Neutral Member

M. D. Rogers

Carrier Member

Paul T. Johnson

Organization Member

Jacksonville, Florida

Dated: 11/20/99