

Org. File: HardstyD
Carrier File: 1-00476

Case No. 9
Award No. 9

PUBLIC BOARD NO. 5721

PARTIES

Soo Line Railroad Company

TO

and

DISPUTE:

Brotherhood of Locomotive Engineers

STATEMENT OF CLAIM: "Request on behalf of Soo District Engineer G. A. Hardisty for reinstatement to service, payment for all time lost and that his record be cleansed of any reference in connection with his dismissal from service for the alleged failure to stop at the signal indication at the Burlington Northern Interlocking at Minot, North Dakota in violation of Rule 9.1.1 and Rule 9.5 of the GCOR."

STATEMENT OF FACTS: On August 16, 1995, the Carrier sent the following notice to the Claimant:

"Please arrange to appear for formal investigation/hearing scheduled to be held at the Veteran's Club, 708 Alder Street, Harvey, North Dakota at 1100 hours, Monday, August 21, 1995.

"The purpose of this investigation/hearing is to determine the facts and circumstances and to place your responsibility, if any, in connection with your alleged failure to comply with the absolute signal indication of the BN interlocking at Minot, North Dakota on Wednesday, August 16, 1995, at approximately 0755 hours while employed as crew members of train 571.

"The facts and circumstances developed in the hearing may also be used to determine locomotive engineer certification status.

"You may be represented in this investigation/hearing as is provided in your schedule rules and agreements. Any reasonable request for postponement must be made a sufficient time prior to the date of the investigation.

"This investigation/hearing is hereby postponed until 1100 hours, September 6, 1995 by mutual agreement between Local Chairman Fronk and trainmaster. All other aspects of this notice remain unchanged."

FINDINGS: This Board, upon the whole record and all of the evidence, finds that the Employees and Carrier involved in this dispute are respectively Employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute involved herein.

OPINION OF THE BOARD: The evidence supports the serious charge against the Claimant. There is mitigation, however, in the fact there were problems with the Dispatcher's Board even though the signals functioned properly. Mitigation is apparent, too, in the fact that the Conductor was returned to service effective January 1, 1997.

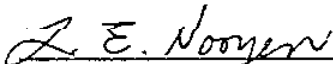
Accordingly, the Board orders the Claimant's reinstatement effective January 1, 1997, and pay for all time lost thereafter.

AWARD

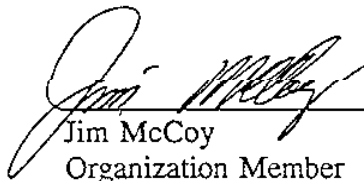
The claim is sustained to the extent indicated above.



Gil Vernon, Chairman and
Neutral Member



Larry E. Nooyen
Carrier Member



Jim McCoy
Organization Member

Dated this 15th day of October, 1997.