

AWARD NO. 19
CASE NO. 19

PUBLIC LAW BOARD NO. 5943

PARTIES)
 TO)
DISPUTE) **BROTHERHOOD OF LOCOMOTIVE ENGINEERS**
 UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM

Claim on behalf of T. Myers for removal of 45 days suspension assessed as the result of an investigation January 26, 1993 for a derailment.

OPINION OF BOARD

Claimant received a 45 day suspension as a result of a derailment of two cars on January 22, 1993.

In the process of making a blind shove at Big River Industries in Erwinville, Louisiana, two cars derailed. Claimant's moves were controlled by radio. Tr. 14. The move was made on the basis of instructions erroneously given by the Conductor. According to the conductor (Tr. 9, 17):

A. ... Mr. Jones [the Brakeman] was at the crossing ... because we were gonna cut the crossing, pull up and make a spot. ... [H]e asked me on the radio ... it'll hold these cars alright [sic], won't it? And I said ... yes it will. And the reason I thought it would ... a couple weeks before then I had shoved the track the limit and counted the cars and I

was ... thinking it would hold 19 cars from the crossing back to the hump. And evidently I ... miscalculated and it will not hold that many.

* * *

I feel like the brakeman done what I instructed him to do and Mr. Myers [Claimant] was taking signals and I ... I think ... what happened is my fault but it was an honest mistake.

The Conductor miscalculated and signaled Claimant in accord with his miscalculations. Unbeknownst to the crew, two cars were shoved off the end of the track.

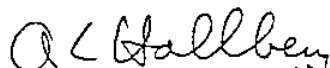
Under the particular circumstances of this case, there is no substantial evidentiary basis in this record upon which to hold Claimant responsible for the Conductor's error. The discipline shall be rescinded and Claimant shall be made whole.

AWARD

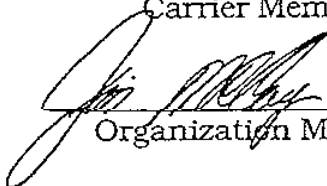
Claim sustained.



Edwin H. Benn
Neutral Member



Carrier Member



Organization Member

Fort Worth, Texas

Dated: May 24, 1999