

AWARD NO. 7
CASE NO. 7

PUBLIC LAW BOARD NO. 6010

PARTIES TO DISPUTE: Brotherhood of Locomotive Engineers
Union Pacific Railroad Company (Western District)

STATEMENT OF CLAIM: Request for expungement of UPGRADE Level 1
discipline assessed against Ogden Engineer L. L.
Payne, and pay for any time lost.

FINDINGS:

The Board, upon consideration of the entire record and all the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

The record reveals that following a formal investigation, the Claimant was issued a letter of reprimand for reporting one hour and one minute late for his assignment at Ogden, Utah on September 25, 1995.

Claimant was called to protect an assignment having a 6:59 a.m. starting time. He reported at 8:00 a.m. The call was issued at 5:13 a.m.

The Agreement between the parties provides that engineers will be accorded one and one-half hour calls. In this instance Claimant's call was issued one hour and forty-six minutes prior to the assignment's starting time.

The Agreement also provides that engineers requiring more than a one hour and thirty minute call will notify the crew dispatcher in writing and will be called as near as practicable at the time desired.

It is undisputed that Claimant had requested a 3-hour call in consideration of the fact that he resided at Pocatello, Idaho and was protecting assignments at Ogden, Utah.

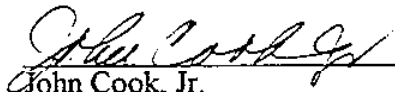
It is clear that the rule mandates calls of one hour and thirty minutes. It is also clear that longer calls to engineers who request them are not guaranteed and that shorter calls may be necessary because of the exigencies of the service. This is implicit in the language "as near as practicable".

From the record in this case, it is apparent that the call of less than three hours was caused not by operational considerations or the exigencies of the service, but instead by an admitted oversight on the part of the crew dispatchers. For whatever reason, which is not made clear by the record, Claimant had been overlooked, which led to the call of less than three hours.


In light of the prevailing circumstances, it is the Board's opinion, which is based solely on the facts of this case, that the letter of reprimand was not warranted.

AWARD: The claim is sustained.

ORDER: The Carrier is directed to comply with the above Award within thirty days of the date hereof.


John Cook, Jr.
Chairman and Neutral Member


Daniel E. Torrey
Carrier Member


J. L. McCoy
Employee Member

Dated at Portland, Oregon this 17 day of ^{August} July, 1998.