

SPECIAL BOARD OF ADJUSTMENT NO. 1063

Case No. 13

Award No. 13

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers  
and  
Norfolk Southern Railway Company  
Norfolk and Western Railway Company, et al.

STATEMENT OF CLAIM:

Claim of Pocahontas Division Engineer D. B. Clendenin for the removal of 15 days deferred suspension and pay for all time lost attending the investigation. He received 15 days deferred suspension in a letter from Assistant Trainmaster M. S. Hamilton dated 4/22/92, account his alleged responsibility in connection with failure to ensure that switch was properly lined for the movement of his train in the vicinity of MP-T-6.5, Gary, West Virginia, at approximately 10:15 a.m., March 22, 1992.

OPINION OF BOARD:

On March 22, 1992, Claimant was working as Extra Engineer on Train U19U, performing switching service in the vicinity of Gary, West Virginia on the Tug Fork Branch, when his crew experienced difficulty throwing a switch to make a reverse movement from a Y configuration. The net result was they found themselves as a hostage on a dead end track with the switch inoperable because it had been run through. The Carrier's preliminary investigation ruled out the possibility of other crews or engine movements causing the problem so the Claimant's crew was notified to attend a formal investigation on a charge of failure to properly line a switch. The Claimant was assessed 15 days deferred suspension which was appealed by the Organization and is now presented to this Board.

This is one of those cases where the Claimant and his crew awkwardly provide the incriminating evidence when the train runs through a switch and there is no way to extricate themselves from the other side because they are on a dead end track and the switch will not function to either leg of the wye. It was necessary to have the Track Maintenance personnel repair the switch to release the crew from their self-imposed restraint.

Our appraisal of the Engineer's involvement in this episode does not call for the type of discipline assessed and we would modify it to a Letter of Reprimand.

FINDINGS: The Agreement was violated.

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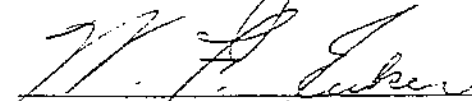
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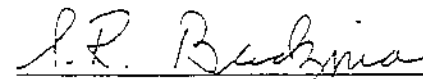
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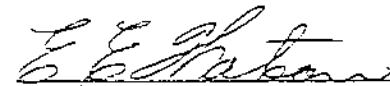
AWARD: Claim sustained per Opinion.

ORDER: The Carrier will make the Award effective within thirty (30) days of the effective date.

Dated at Norfolk, Virginia, this 15<sup>th</sup> day of June, 1993.

  
W. F. Euker, Neutral Member

  
S. R. Budzina, Carrier Member

  
E. E. Watson, Organization Member

Carrier File: EE-BL-92-26  
Org. File: D-448-92-3