

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 185
Award No. 185

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

and

Norfolk Southern Railway Company
Norfolk and Western Railway Company, et al.

STATEMENT OF CLAIM:

Claim of Engineer T. E. Redwine, Georgia Division North District, for pay for all time lost in connection with alleged violation of Norfolk Southern Operating Rules GR3, 101, 105, 108, while he was serving as Engineer on Train No. 360, March 3, 1995. Investigation conducted March 10, 1995. Article 31, Schedule Agreement.

OPINION OF BOARD:

On March 3, 1995, Claimant Engineer was operating Train No. 360-G in Industry Yard, Georgia, when his locomotive struck a Tractor Trailer parked adjacent to the railroad right-of-way. The particular Trailer that was struck, was in a line of trailers, but it was parked two feet eight inches over a painted yellow containment line and was fouling the track. The impact damaged the Trailer and the locomotive's bay window. The grab iron on the lead unit was damaged but the crew alleges this occurred when the Industry employees were moving the damaged trailer away from the locomotive.

Following trial on a charge of violating various Operating Rules, Claimant was assessed a twenty (20) day deferred suspension which, in turn, activated a previous ten (10) day deferred suspension. This is an appeal from that discipline.

As noted earlier, the trailer that was struck was parked along an irregular line of trailers, however, unlike the remaining trailers, it was parked two feet eight inches over the yellow line fouling the track. Industry personnel were responsible for placing the trailers behind the yellow containment line, providing clearance for the railroad right-of-way. The trial record indicates that was not done in this case. It is axiomatic that Carrier employees are not always able to rectify the mistakes of others, although it is commendable when they do. We are not persuaded the evidence proffered at the investigation convincingly establishes Claimant's culpability in this case.

FINDINGS:

The Agreement was violated.

AWARD:

Claim sustained in accordance with the Opinion.

ORDER:

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

Dated at Norfolk, Virginia, this 3rd day of March,
1997.

W. F. Euker
W. F. Euker, Neutral Member

K. G. O'Brien
K. G. O'Brien, Carrier Member

P. T. Sorrow
P. T. Sorrow, Organization Member

Carrier File: ZE-ATLN-95-8
Org. File: A296-316D