

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 202  
Award No. 202

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

and

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

STATEMENT OF CLAIM:

Claim of Norfolk Terminal Engineer S. C. Patrick for the removal of sixty day actual suspension from his record and pay for all lost time for his responsibility for failure to stop short of an obstruction banner September 12, 1996, on R-1 Lead, West End Empty Yard.

OPINION OF BOARD:

On September 12, 1996, the Claimant was working Assignment No. NL27 Empty Yard, Norfolk, Virginia. While proceeding westward on R-1 Lead track, with a train of fifty-eight empty hopper cars around an eight degree left-hand curve, the Claimant passed and ran over an obstruction banner that had been erected by Carrier officials, who were conducting efficiency checks. Claimant alleged he could not see the banner from his position on the right hand side of the locomotive. The Claimant also insisted he did not receive proper communication from his brakeman, who was riding on the left side of the engine, to forewarn him of the obstruction.

Following trial on a charge of failure to stop short of an obstruction banner, Claimant was assessed sixty (60) days suspension, which is the subject of this appeal.

As is their customary procedure, Carrier conducted a sight test to determine the range of visibility from the Engineer's side and concluded the banner was visible at seventy-three feet, if the Engineer was standing, although it then disappeared as the engine moved closer. From the opposite side of the engine where the Brakeman was positioned, it was asserted the sight test gave him a better view of the banner, but unfortunately, his method of communication left something to be desired.

We have examined the relevant facts and rules plus the results of the two sight tests and are persuaded by the Organization's argument that both sight tests were performed under controlled situations where the individuals operating the

engine knew there was an obstruction on the track and were looking for it. We also believe the Claimant's final statement at the trial makes out a convincing case for softening the discipline. We will reduce the assessed discipline from sixty (60) days to thirty (30) days, with Claimant to be compensated for the difference, if the time has been served, and his discipline record adjusted accordingly.

FINDINGS:

The Agreement was violated.

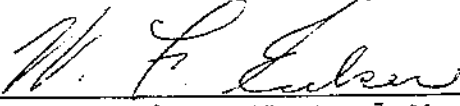
AWARD:

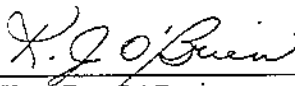
Claim sustained in accordance with the Opinion.

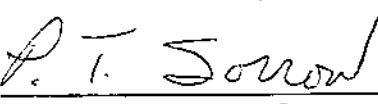
ORDER:

The Carrier is directed to make the award effective within thirty (30) days of the date of this award.

Dated at Norfolk, Virginia, this 11<sup>th</sup> day of September, 1997.

  
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W. F. Euker, Neutral Member

  
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K. J. O'Brien, Carrier Member

  
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P. T. Sorrow, Organization Member