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Award No. 522
Case No. 522

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)	
)	
vs.)	Parties to Dispute
)	
UNION PACIFIC RAILROAD COMPANY)	

STATEMENT OF CLAIM:

Claim in behalf of Engineer W. J. Barden, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and that this incident be removed from Claimant's personal record when he was investigated on the following charge:

"Your responsibility in connection with your failure to properly perform your duties resulting in collision of engine CNW 4467 and CNW 6657 and subsequent derailment of engine CNW 4467 and damages to engine CNW 4467 and engine CNW 6657 at approximately 9:45 p.m. on March 3, 1991 at Proviso, IL. while you were employed as crew members of Job 13 commencing work at 2:30 p.m. and Job 29 commencing work at 3:01 p.m. Proviso, IL on March 3, 1991."

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within

the meaning of the Railway Labor Act, as amended, and that the Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant Engineer was found responsible in connection with collision and derailment at Proviso. The discipline assessed was five (5) days suspension.

The transcript of investigation indicates that Claimant was operating Locomotive 6657 through a crossover from Track 1 to the Independent Lead when it was struck by Locomotive 4467 operating in the same direction on the Independent Lead.

Based upon the entire record in this case, the Board finds that Claimant Engineer should not be held responsible for the accident. Clearly the crew of Locomotive 4467 operating with long hood forward should have been more cautious, but the Engineer of Locomotive 6657 did what the rules require. A trainman was on the point for the move. The Engineer was on the right side and could not see to the left where the collision occurred, but there was a trainman on the left side who

should have seen what was coming. The Engineer should not be held liable for the failure of others under the circumstances present in this case.

AWARD

Claim is allowed.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. H. MacArthur
Employee Member

W. J. Longala
Carrier Member

S. Kelly
Chairman and Neutral Member

Dated: Feb 20, 1958