

PUBLIC LAW BOARD NO. 5383

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)
)
 vs.) Parties to Dispute
)
 UNION PACIFIC RAILROAD COMPANY)
 (FORMERLY CHICAGO AND NORTH WESTERN)
 TRANSPORTATION COMPANY))

STATEMENT OF CLAIM:

Claim in behalf of Engineer W. E. Buford, Chicago Terminal Division, for removal of sixty (60) days suspension entry from his service record and compensation for all time lost, including time spent at the investigation when he was investigated on the following charge:

"Your responsibility in connection with the damage to engine 1651 and GACX 47356, load of corn starch, at approximately 9:05 a.m., February 19, 1978 when you were assigned as crew members on Job 53, 7:15 a.m., Switch Assignment, 40th Street Yard."

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 and a brakeman were charged with responsibility in connection with a collision while operating in yard service. Claimant was found at fault and disciplined with sixty (60) days suspension. The brakeman was not disciplined.

The transcript of investigation indicates that Claimant and crew were pulling about forty-five (45) cars and diverged from their route because of a frozen switch. The brakeman gave a "come on sign" to the engineer whose vision was impaired at times as he was operating the unit with long hood forward. All necessary switches were not properly lined and a collision resulted.

The Board finds that responsibility of Claimant is not clearly established in the record here. Claimant should have been able to trust his brakeman for that which he could not see clearly. He was misled by the brakeman whose dereliction caused the accident.

AWARD

Claim is sustained.

ORDER

Carrier is ordered to make this award effective within thirty (30) days of the date shown below.

C. R. Wise
Carrier Member

B. D. MacArthur
Employee Member

R. Keely
Chairman and Neutral Member

Dated: June 5, 1997