

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers and Trainmen

and

Norfolk Southern Railway Company

STATEMENT OF CLAIM:

Appeal on behalf of Harrisburg Division Engineer S. A. Yocum for reinstatement to service, payment for all time lost, restoration of benefits and the discipline expunged from his record. Claimant was dismissed from service for alleged passing a signal displaying stop indication without proper authority at approximately 6:03 a.m. on April 21, 2006 in the vicinity of CP-53 on the Lehigh Main Line while assigned as crew members on 21EH521.

OPINION OF BOARD:

Claimant Engineer was discharged from Carrier's service as a result of a trial where he was found guilty of passing a Stop signal, without authorization on April 21, 2006. On that date, the Claimant was assigned to Train 21EH, traveling on the Lehigh Main Line between Croxton, New Jersey and Harrisburg, Pennsylvania, when his train received an Approach signal at a point identified as CP-51. Under Carrier's rules, that signal requires the train to reduce to medium speed, prepared to stop at the next signal. The crew stated they called the signal and the Conductor said he alerted the Engineer, half-way through the block that he was running on an Approach signal. Nonetheless, Train 21EH failed to reduce speed until they came within sight of the Stop signal at CP-53, when the train was placed in emergency. The train eventually came to a stop, but not before passing the signal by 724 feet, although a meeting with opposing train 214 was averted.

The Carrier officials were informed of this incident and proceeded to make a routine investigation, which included a review of radio transcripts, the event recorder tapes from the locomotive units, the signal system complex and finally, interviews with the individual crew members. Based on the examination of the collected data, Claimant was charged as noted earlier, given a trial and dismissed from the service.

The Organization appealed, insisting there were extenuating and mitigating circumstances which should have been considered by Carrier when discipline was assessed, even though the violation was admitted. Those circumstances were set forth in the record by Claimant when he testified. The Claimant's initial statement to the Carrier was that he "zoned out." He was asked at the trial what he meant, and he replied that "his body was there, but his mind was elsewhere." After further elaboration, the Claimant testified he was having domestic problems with the "specialized" care of one of his small children, which prevented him from getting adequate rest, especially during the day. The Claimant admitted it was his responsibility to notify his supervisor, if he felt he was not fit for service due to these special circumstances. He admitted he never notified Carrier officials of these problems, but assumed they knew about them.

Following their unsuccessful appeal, the dispute was presented to this Board and the Claimant notified by the Organization of the time and date set for hearing, if he cared to attend.

It is fair to say that it is not wise to make assumptions when you are responsible for handling heavy trains, while a chance for missing a signal hovers around every bend in the track. Moreover, it is not a place to be day-dreaming or reflecting on the problems at home. Dame Fortune smiled on the Crew of Train 21EH on this date, but the gates of frivolous circumstance could close as quickly as they opened.

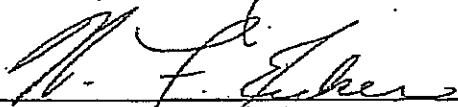
In our opinion, the Carrier recognized the existence of mitigating circumstances in this case, but they felt Claimant had an obligation to call those matters to their attention before he went out on assignment. Considering the trying circumstances Claimant was required to endure, coupled with his desire to be a "full time" employee, we believe the amount of time Claimant has been out of service is sufficient discipline, so we will reinstate him to service without compensation for time out of service. Claimant must be mindful of the close call he experienced and should have the single mindedness to observe the rules in order to keep himself and his crew out of harm's way and remain available to perform the daunting tasks at home.

FINDINGS: Claimant is restored to service, but claims for compensation and other benefits are denied.

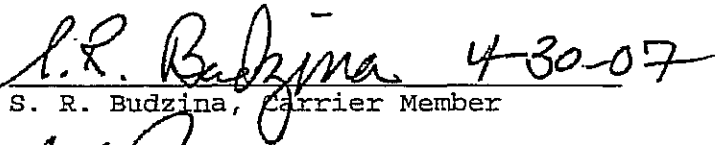
AWARD: Claimant is restored to service subject to Carrier's requirements for a "return to duty" physical examination.

ORDER: The Carrier will place the Award into effect within thirty (30) days of this date.

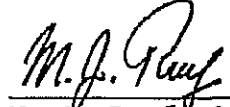
Dated in Norfolk, Virginia, this 14th day of March, 2007.



W. F. Euker, Neutral Member



S. R. Budzina, Carrier Member



M. J. Ruef, Organization Member

Carrier File: ~~HE-NOT-06-01~~
Organization File: ~~HE-ABR-01-01~~
~~HE-ABR-01-02~~
~~HE-NOT-06-01~~

