

PUBLIC LAW BOARD NO. 6907

Award No.  
Case No. 1

PARTIES TO DISPUTE:  
(Kansas City Southern Railroad  
(Brotherhood of Locomotive Engineers & Trainmen

STATEMENT OF CLAIM:

Claim of Engineer Walter E. Cornish for removal of 10-day suspension and pay for all time lost in connection with an investigation held in East St. Louis, IL, on May 5, 2003.

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. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Claimant was called for train service to be on duty at 1110. Several minutes after 1110, the Supervisor asked the Conductor where the Engineer (Claimant) was, and the Conductor stated he was not there. At 1116 Claimant arrived at the office to get his paper work and Claimant, when asked why he was late, responded he was "running late."

An investigation was scheduled to ascertain culpability for the charges assessed. After the investigation, the Carrier wrote Claimant on May 15, 2003, assessing Claimant a ten-day suspension from service believing they had furnished sufficient evidence that supported the charges.

A review of the transcript reveals an overlong effort to support Claimant's

contention that he was on time, but as far as this Board is concerned what really supports Carrier's conviction is that Claimant stated on the property when queried as to why he was late, he responded he was running late.

It may seem somewhat of an overreaction when an individual was only 6 minutes late for reporting, but nevertheless Claimant has the obligation to report on time ready to go to work at the time called. On the other hand, if Claimant had a valid reason for being late other than he was running late, this whole episode would possibly not have occurred.

Railroads run trains by the clock. They cannot operate at times an employee finds convenient. When called to report by 1110, it was Claimant's responsibility to report his presence ready to go to work at 1110.

Clearly, Claimant was in violation of Rule 1.15, which reads in pertinent part:

"Employees must report for duty at the designated time and place...."

You can also find that he was in violation of Rule 1.6, item 2 that reads:

"Employees must not be...2. negligent...."

The other cited Rules alleged to have been violated are a stretch; however, the aforementioned Rules that Claimant did violate are sufficient to establish his culpability for the charges assessed.

Claimant has, apparently, a clear record but this fact does not by and of itself exonerate Claimant sufficiently to overturn the discipline. It does, however, cause this Board to reduce the ten days actual to five days actual. He is therefore to be paid for five days.


AWARD


Claim sustained as provided in the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.

  
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Robert L. Hicks, Chairman & Neutral Member

  
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Merle Geiger, For the Employees

  
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George F. Leif, For the Carrier

Dated: 2-9-06