

AWARD NO. 3  
Case No. 3

Organization File No.  
Carrier File No. EE-CO-06-23

PUBLIC LAW BOARD NO. 6945

PARTIES ) BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN  
          )  
TO        )  
          )  
DISPUTE  ) NORFOLK SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Claim of Lake Division (Columbus District) Engineer R. V. Cameron for reinstatement with all benefits restored and pay for all time lost due to an Investigation held October 31, 2006 at Portsmouth, OH.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 14, 2006, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

On October 10, 2006, Claimant was assigned as engineer on Train L55LB10, a road switcher, working with a conductor, a brakeman and a conductor trainee. At approximately 1:30 pm, the crew made a pick up and set off of cars at Waverly Yard. In doing so, they first pulled west of the intersection of Main Line 1 and the DT&I line, cut off the eleven cars to be set out, and left the remaining 48 cars of their train on the main line. They then pulled the eleven cars east, received a signal from the dispatcher at the interlocking, and shoved the cars into an industry track. At that

point, the conductor and conductor trainee got off the train to meet with Trainmaster Lynn. After picking up another eleven cars, Claimant and the brakeman then proceeded back to the mainline. As they neared the signal at MP N635.3, they called a diverging approach indication over the radio and proceeded through the interlocking and power switch. When they reached the mainline, the dispatcher was unable to reline the switch for their movement. It was later determined that the signal at MP N635.3 had been at stop, and that the crew had run through the power switch.

Claimant and his brakeman were subsequently directed to attend a formal investigation at which they were charged with operating past a stop signal without authorization. Following the investigation, both employees were dismissed from service.

There is no question that Claimant was responsible for running through the stop signal. Although the signal, according to Claimant, appeared to be yellow, which caused the employees to call a diverging approach, it is evident that it was red. We find that there was substantial evidence to support the Carrier's charge against Claimant.

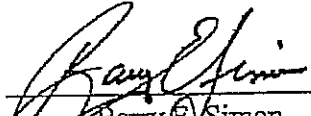
As was the case in Award No. 2, the Carrier has cited the September 26, 2006 letter from Executive Vice President Operations Manion as its justification for dismissing Claimant. For the reasons stated in that Award, we reject the concept that all employees who pass stop signals must be dismissed despite the circumstances in each individual case.

In Claimant's case, as we did in Award No. 2, we have an employee with a long work record with only nominal discipline. Claimant began service with the Carrier as a fireman in 1972 and was promoted to engineer in 1974. Over his 34 years of service, he has had five disciplinary entries, none of which resulted in any actual suspension. Again, we find this to be a commendable record that


should have been given serious consideration when discipline was imposed. Furthermore, it is apparent that when Carrier officials conducted follow-up tests in this area, they found that the signal, from 424 feet away, appeared to have an amber tint on the middle aspect, giving the appearance of a diverging approach signal. At 298 feet from the signal, however, all three aspects appeared red.

In light of the circumstances particular to this case, we will direct that Claimant be reinstated to service with seniority rights unimpaired, but without compensation for time lost.

AWARD: Claim sustained in accordance with the above Findings.

  
Barry E. Simon  
Chairman and Neutral Member

  
M. J. Ruef  
Employee Member

 7-17-07  
S. R. Budzina  
Carrier Member

Dated: June 30, 2007  
Arlington Heights, Illinois

