

AWARD NO. 12

Case No. 12

Organization File No.

Carrier File No. IC-111-108-22

PUBLIC LAW BOARD NO. 7154

PARTIES) BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN
)
TO)
)
DISPUTE) CANADIAN NATIONAL (ILLINOIS CENTRAL RAILROAD)

STATEMENT OF CLAIM:

Claim of CN/IC Engineer C. M. McKnight for the removal of the (10) day suspension for the alleged violation of Canadian National/Illinois Central U. S. Operating Department Rules 1105 in connection with allegedly operating train G81091-10 with incorrect Tabular General Bulletin Orders (TGBO) on Sunday, November 11, 2007 while working as Engineer on Train G81091-10, with all notations of discipline assessed expunged from his personal work record and compensation for all time lost, including loss of earnings due to attending the investigation.

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 October 15, 2007, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

The essential facts in this case are undisputed. When Claimant boarded Train G81091-10 at Memphis, Tennessee on November 11, 2007, the Tabular General Bulletin Orders (TGBO) were not on his train. Claimant's conductor called the train dispatcher, but could not converse with him due to communication problems. He then called the Assistant Superintendent, who arranged to have

the TGBO faxed to the tower. The Assistant Superintendent then went to the tower to retrieve the fax and delivered it to the conductor. Claimant then began his trip toward Jackson, Mississippi.

After Claimant's train arrived at Jackson, it was discovered that the crew had been given the wrong TGBO. The orders they were given gave them authority to operate from milepost 5.4 to milepost 23 on the Yazoo District. To get to Jackson, the crew operated to milepost 205.7.

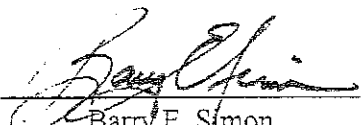
Claimant and his conductor were consequently directed to attend a formal investigation at which they were charged with operating with the incorrect TGBO. At the investigation it was established that the crew that brought Claimant's train from Fulton to Memphis should have had TGBO No. 837. It was this TGBO that was erroneously sent to the Assistant Superintendent for delivery to Claimant and his conductor. Following the investigation, Claimant was assessed a ten day suspension.

We have reviewed the 185 page record of the investigation, and conclude that the Carrier established by substantial evidence that Claimant operated his train without the proper TGBO. Operating Rule 1105 requires members of the train crew to determine if they have the correct TGBO and that it covers the entire route over which the train will operate. Obviously, Claimant did not comply with these requirements.


The Organization contends that Claimant was not totally at fault in this case. It notes that the wrong orders were sent by the dispatcher and then passed along to Claimant by the Assistant Superintendent. While each of them might have had an opportunity to catch the error, it cannot be denied that the final check was the responsibility of the employees who would be operating the train. Claimant was not in compliance with Operating Rule 1105 and was properly subject to discipline.

Under the circumstances in this case, we do not find the discipline imposed to be excessive. In reaching this conclusion, we have considered the various objections raised by the Organization and find them to be without merit.

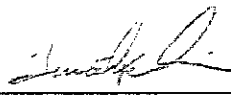
AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



J. R. Koonce
Employee Member



Timothy E. Rice
Carrier Member

Dated: October 21, 2009
Arlington Heights, Illinois