

AWARD NO. 20
Case No. 20

Organization File No.
Carrier File No. IC-BLET-2008-00078

PUBLIC LAW BOARD NO. 7154

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

STATEMENT OF CLAIM:

Claim of CN/IC Engineer J. A. Calloway for removal of the ten (10) day suspension from his personal record (August 7 through August 16, 2008) plus compensation for attending the July 23, 2008 formal investigation in connection with allegedly exceeding maximum authorized speed while working with the light locomotive GTW 5859 on the Baton Rouge Subdivision in ABS territory while working on Job RDS05 on June 18, 2008.

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.


Following a collision between Claimant's light engine and an automobile at a grade crossing, Claimant was instructed to bring the engine to Destrehan to have the event recorder tape downloaded. This download indicated that Claimant's engine had been traveling at 38.9 mile per hour. The maximum speed for a light engine movement in this territory is 30 miles per hour. Claimant was subsequently directed to attend a formal investigation at which he was charged with exceeding

the maximum authorized speed. Following the investigation, Claimant was assessed a ten day suspension.

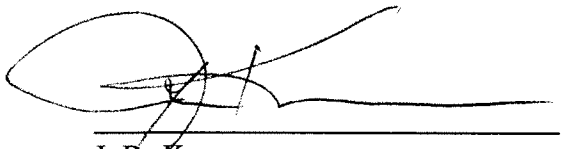
The record of the investigation shows that Claimant, his conductor and his brakeman acknowledged that they did not perform a speed check on the engine speedometer, except at the beginning of their trip when it checked accurately at 9 or 10 mph. Claimant and his Conductor, though, testified that they had not passed a measured mile during their trip. Consequently, it would not have been possible for them to perform this check. It is also evident that the speedometer was not properly recording the speed of the engine in the 30 mph range, although it was found to be accurate at 15 or 16 mph.

Based upon the record before us, we conclude there is evidence that Claimant was speeding, but he was relying upon the speedometer on the locomotive for maintaining his speed consistent with the Carrier's restrictions. It is not disputed that the speedometer was faulty. We also find no evidence Claimant had an opportunity to check the accuracy of the speedometer at higher speeds. We note, however, that Claimant was an experienced engineer and should have recognized the difference between 30 mph and almost 39 mph. He must bear some responsibility for speeding, but his discipline should be mitigated by the fact that the speedometer was unreliable. Claimant's record does not reflect any prior discipline. Under the circumstances, therefore, we will direct that the discipline imposed be reduced to a ten day deferred suspension and that Claimant be made whole for time lost as a result of the suspension.

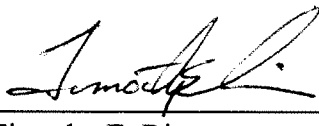
AWARD: Claim sustained in accordance with the above Findings. Carrier is directed to comply with this Award within 30 days.



Barry E. Simon
Chairman and Neutral Member



J. R. Koonce
Employee Member



Timothy E. Rice
Carrier Member

Dated: December 2, 2009
Arlington Heights, Illinois