

AWARD NO. 35
Case No. 35

Organization File No.
Carrier File No. IC-BLET-2009-00152

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 D. J. Collums for removal of a ten (10) day suspension deferred for one (1) year and payment for one (1) day attending the investigation held on June 22, 2009 to determine your responsibility, if any, in connection with derailment and subsequent damages sustained to railcars UP 78640, GFSX 7112 and UTLX 68941.

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.


On May 23, 2009 Claimant was the Engineer on Assignment R92871-23. While switching cars on the north end of the yard at President's Island, three cars that he had been shoving over the No. 1 switch derailed at the switch. Claimant was consequently directed to attend a formal investigation in connection with this incident. Following the investigation, Claimant was assessed a ten day deferred suspension.

The investigation revealed that Claimant had been directed by his conductor to kick a car toward Old Main 1. When the car did not clear the No. 1 switch, he came back with his engine and nine cars, coupled onto the car that was fouling the switch, and then kicked the car down. When told to kick the car by his conductor, Claimant moved the throttle from idle directly to the eighth notch.

Testimony was offered by Supervisor of Locomotive Engineers J. E. Regel, who explained that going from idle to the eighth notch in these circumstances would have maximized in-train and track-train forces. He stated he would have first gone to the third notch, then to the fifth, sixth or possibly the eighth notch, but not directly from idle to eight. The Carrier, based upon the record, concluded that Claimant was in violation of Air Brake and Train Handling Rule 300 (iv), which directs the engineer to “select and adjust the throttle, dynamic brake, and air brake in a manner which minimizes in-train and track-train forces.”

Upon review of the record before us, the Board finds that there was substantial evidence to support the Carrier’s charge against Claimant. In reaching this conclusion, we have considered the various arguments advanced by the Organization and find them to be without merit. In particular, we reject the Organization’s argument that there was no proof of substantial damage. The record shows that both rails were turned over and had to be replaced. Even if there had been no damage, the fact that Claimant did not properly handle his train made him subject to discipline. While the Carrier does not offer an explanation, it is likely that the relatively minor damage is reflected in the fact that Claimant received relatively minor discipline. We note that his record includes a dismissal in 2002 for making a shoving move that resulted in a derailment. We do not find any basis for modifying the discipline imposed.

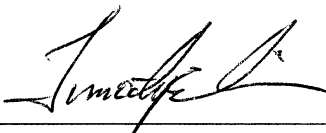
AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



Dennis Pierce
Employee Member



Timothy E. Rice
Carrier Member

Dated: February 19, 2010
Arlington Heights, Illinois