

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

TO

AWARD NO. 64
CASE NO. 64
FILE: M0115-1112

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY


STATEMENT OF CLAIM: Claim of KCS-MidSouth Engineer Joel Suggs for immediate reinstatement to service with seniority and vacation rights unimpaired, payment for all time lost, removal of all notations from his personal work record resulting from his dismissal from service on July 27, 2015. This claim shall include all wage equivalents to which he is entitled, (including wages when wrongfully withheld from service pending), Railroad Retirement credits restored, all out of pocket cost for Health and Welfare benefits or any loss of such benefits, and any other benefit he would have received working as an active Locomotive Engineer for the KCS-MidSouth Railroad for alleged violation of the Kansas City Southern Railway Company's General Code of Operating Rules 10.1 - Authority to Engineer CTC Limits; The Kansas City Southern Railway Company's Special Instructions Rule 9.1.9 - Block Signals, Stop; and The Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules 109.1 - Engineer and Conductor Responsibilities and Certification; General Responsibilities.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

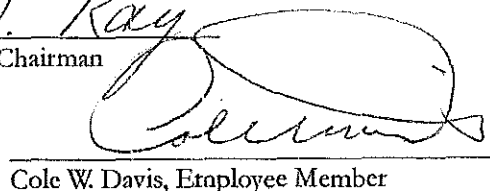
Claimant was employed on September 14, 1991, and was subsequently promoted to engineer. On July 8, 2015, Claimant was engineer on a yard job in Pearl, Mississippi. Claimant's crew was involved in a derailment. After an investigation, it was discovered that Claimant operated past a red signal. As a result, a hearing was held and based on the evidence, Claimant was dismissed.

There is substantial evidence to support the charges. We have considered the procedural objections raised by the Organization and find them not to be fatal to the case and will rule on the merits. Claimant states he had an Approach signal, but admitted there could have been a glare from the sun on the signal. The evidence and witness testimony provided shows that Claimant violated the Carrier's operating rules when he operated past the red signal. The Organization argues the discipline was disparate. We do not agree. Claimant was the only person who saw the signal and proceeded through it. The discipline was in accordance with Carrier's Discipline Policy. However, in view of Claimant's record and his tenure, the Board will give Claimant a final opportunity to prove he can be a valued asset for the Carrier. The Board will return Claimant to service, but without pay for time lost.

AWARD: Claim sustained, in part, in accordance with Findings.



David N. Ray, Chairman


Jennie Nyp, Carrier Member
Cole W. Davis, Employee Member

Signed at Estero, Florida on October 21, 2017.