

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

AWARD NO. 81
CASE NO. 81
FILE: 2017-0384

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

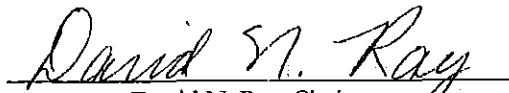
STATEMENT OF CLAIM: Claim of KCS Engineer Reginald Owens for the unwarranted discipline of 60 days Suspension, 30 days actual suspension (served August 7, 2017 through September 5, 2017). This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's System Special Instructions - Trackside Warning Devices.


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 October 16, 2000, and subsequently promoted to engineer. On July 10, 2017, Claimant was the engineer on the MARSH-08 out of Bossier City, Louisiana. Carrier managers performing rule checks changed the radio frequency of a trackside warning detector at milepost 121.5 (Gibbsland, Louisiana) so it was not operating on the same channel as the on-board radio to ensure the crews on passing trains would not receive any message from the detector, and would have to follow the required safety protocol. Claimant thought he heard "proceed". The crew did not attempt a rebroadcast. As a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension, of which thirty days were served.

Substantial evidence support the charges. The Organization posits that Claimant's discipline was not warranted as Claimant was on overload as many things were going on at the same time. Carrier's Operating Rules required the crew the crew to manually request a rebroadcast and, if one was not received, to follow the safety protocol, including immediately reducing their speed to 30 miles per hour to the next detector. Carrier witnesses testified that the crew could not have heard a clearance and failed to follow the safety protocol after passing the failed detector. The Hearing Officer determines credibility and found Claimant's testimony to be self-serving. The discipline was issued under Carrier's Discipline Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.


David N. Ray, Chairman


Jennie Nyp, Carrier Member


Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.