

PUBLIC LAW BOARD 7239

PARTIES BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN

AWARD NO. 95
CASE NO. 95
FILE: 2018-0415

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

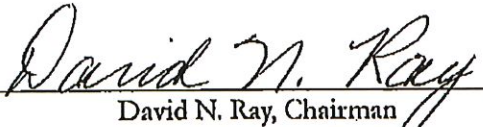
STATEMENT OF CLAIM: Claim of KCS Engineer David Hudgens for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (August 27, 2018 through September 25, 2018) assessed to Engineer Hudgens and 30 days record suspension. This claim is for all compensation lost 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 General Code of Operating Rules 5.8.2 - Sounding Whistle.

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 December 18, 2006, and subsequently promoted to engineer. On July 25, 2018, Claimant went on duty at Mexico, Missouri to work as an engineer on the GCDMY-25. The crew was cabbed to Corder to put together a grain train which was operated to South Blue Valley. A Carrier officer reviewed the crew's event recorder and found Claimant did not sound the whistle at a public road crossing at milepost 443.48 on the Mexico subdivision. 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 supports the charges. The Organization argues the time limits were violated, that proof was lacking that Claimant did not sound the whistle and the evidence presented did not prove Claimant violated any rules. The crew's testimony and the Carrier's witnesses testimony were in direct conflict with each other. The Hearing Officer determined the Carrier testimony was more credible. A review of the documentation indicates time limits were properly applied. The testimony indicates Claimant did not sound the whistle in violation of Carrier's rule. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.



David N. Ray, Chairman



Jacob McCahill, Carrier Member



J. Alan Holdcraft, Employee Member