

PUBLIC LAW BOARD NO. 5902

**PARTIES) UNITED TRANSPORTATION UNIONB YARDMASTER DEPT.
TO)
DISPUTE) NORFOLK SOUTHERN RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of Inman Yard, Atlanta, Georgia, Yardmaster M. D. Warren for reinstatement and pay for all time lost account his dismissal as the result of investigation held December 12, 1995 in connection with his failure to protected a shove being made by yard run GA-04 in FT 12 at Inman Yard while serving as a yardmaster. (Organization File: UM-GA-96-2; Carrier File: UM-GA-96-2)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The Claimant, a Yardmaster, was dismissed from service for his failure to properly protect a shoving movement that was being made by a yard crew on Track 12 in Inman Yard on November 14, 1995.


Basically, the Claimant advised the conductor of the yard crew that he would watch the shove light, which light is located on a console in the Yardmaster's office. The light stays on until a car is shoved to or hits a contact point, which, in this case, is a clearance point for Track 12 with other tracks. Unfortunately, after telling the conductor that he would watch the light, the Claimant busied himself with other duties, and by the time he again looked at the light, and told the crew to stop, the yard train had passed the contact point and derailed after running into the side of a train pulling out of Track 11. This negligence on the part of the Claimant caused damage to equipment and a delay to the switching operation.

The Claimant's service record reveals discipline was administered on eight separate prior occasions since he became a Yardmaster. It is evident in study of the incident involved in this case, when viewed in the light of the Claimant's past record concerning the direction and coordination of yard movements, that he lacks the requisite qualifications to perform the duties of a Yardmaster in a responsible, safe and efficient manner.

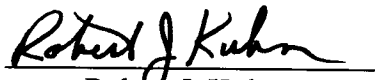
Although the Board finds just cause for the removal of the Claimant from a position of Yardmaster, we do not find the record to support his permanent termination from all service. We believe that the Claimant should be returned to service in his former position as a switchman. The Board will therefore direct that the time out of service constitute a disciplinary suspension, without payment for time lost, the Claimant's name be removed from the Yardmasters' seniority roster, and that the Claimant be reinstated to service as a switchman, subject to his passing a return to duty physical..

AWARD:

Claim disposed of as set forth in the above Findings.



Robert E. Peterson
Chair & Neutral Member



Robert J. Kuhn
Carrier Member



Robert C. Arthur
Organization Member

Norfolk, VA
November 17, 1997