

PUBLIC LAW BOARD NO. 6632

PARTIES TO DISPUTE:

UNITED TRANSPORTATION UNION)
YARDMASTERS DEPARTMENT)
VS) NMB CASE NO. 1
KANSAS CITY SOUTHERN RWY CO) AWARD NO. 1

STATEMENT OF CLAIM:

Claim is made for Yardmasters Fuller and Dillahunty to be made whole and compensated for all time lost due to the Carrier's inappropriate assessment of discipline including any missed credits towards vacation pay and the Railroad Retirement Board. Organization also requests that their seniority rights and health and welfare benefits be credited for any time out of service. It is further requested that their record be cleared of this entire incident.

FINDINGS AND OPINION

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended. This Board has jurisdiction of the dispute here involved. The parties to this dispute were duly notified of hearing thereon.

Claimants were summoned to a formal investigation on a charge of alleged improper Yardmasters turnover, wherein insufficient information was exchanged, resulting in the occupancy of the main track by two opposing trains. Following the investigation Carrier found both claimants at fault and assessed each of them a 10 day suspension from service as discipline.

This Board has had the opportunity to thoroughly review the transcript of hearing, together with all other documents submitted by the parties, and finds that sufficient evidence was produced to justify a finding that claimants were culpable; however, it is likewise our finding that the discipline assessed was excessive.

Based on the record in its entirety, it is the finding of this Board that the 10 day suspension assessed to claimant Dillahunty be reduced to a "Reprimand" and he is entitled to be compensated for time lost during the 10 day period he was withheld from service.

It is likewise the finding of this Board that the 10 day suspension assessed claimant Fuller be reduced to a 5 day suspension. Claimant Fuller is entitled to be compensated for time lost during the additional 5 day period he was withheld from service.

AWARD

Claim disposed of as set forth in the above findings. Carrier is instructed to comply with this Award within thirty days of the date hereof.

F. T. Lynch

F. T. Lynch, Neutral Chairman

K. A. Alexander

K. A. Alexander, Carrier Member

J. R. Cumby

J. R. Cumby, Employee Member

Award date

8/21/03