

PARTIES TO DISPUTE:

**UNION PACIFIC RAILROAD COMPANY
AND
BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN**

STATEMENT OF CLAIM:

“Request the removal of the level 5 discipline from the record of Engineer R. G. Mitchell and that he be reinstated and paid for time lost, including vacation time and all other benefits associated, therewith.”

FINDINGS:

On June 8, 2001, Charging Officer MOP G. Stovall was part of a testing team, conducting observations and performance tests on Train MPBEW-08. Engineer R. G. Mitchell was part of the crew of Train MPBEW-08, performing a switch movements that involved setting out their eight locomotive from a nine locomotives consist. During the process, Engineer Mitchell and crew left one locomotive with rail cars on the main track. Upon inspection, Charging Officer MOP Stovall discovered the cars and engine were not secured by hand brakes; the brake valves on the engine were cut out, and, on the rear end of locomotive, the angle cock was turned.

On June 10, 2001, Carrier mailed Engineer Mitchell a certified letter, directing:

“Please report to the Conference Room, 6800 Kirkpatrick Blvd. Houston, Texas, on Thursday, June 16, 2005, at 1:00 PM, for formal investigation to develop facts and place your responsibility, if any, in connection with your allegedly being indifferent to the performance of duty and careless of the safety of yourself, other employees and general public by failing to secure equipment and creating the potential for a runaway and uncontrolled movement of your train, MPBEW-08, in the vicinity of Nacodoches, Texas, on June 08, 2005, at approximately 8:00 p.m. It is further alleged that at this same time and place, you willfully and intentionally bottled the air on your train and did not deplete its brake pipe pressure to zero prior to leaving it unattended on a descending grade.

Engineer only – Proposed discipline is a Level 5, under the UPGRADE Policy. You may contact MOP Gil Stovall at 936-639-6162, for conference purposes.”

After mutually agreed upon postponement, formal investigation was convened on June 21, 2001. After reviewing the transcript of investigation, Engineer Mitchell

was found responsible for violating GCOR 1.6 – Conduct; GCOR 7.6 – Securing Cars and Equipment; and GCOR 32.1 – Securing Equipment Against Undesired Movement. Upon a finding of responsibility, he was assessed Level 5 Discipline and permanently dismissed.

Discipline was timely appealed in accordance with agreement. Partisan parties have been unable to resolve this dispute on property, and it comes, now, before this Board for final and binding adjudication.

Board was unable to meet as scheduled, account Hurricane Katrina. However, on September 26, 2005, we heard brief arguments - via teleconference - from those available.

On September 26, 2005, this Board issued a Bench Decision to reinstate Engineer Mitchell with the understanding that a determination would be made as to the amount of back pay, if any, upon hearing of full and final arguments.


OPINION OF THE BOARD:

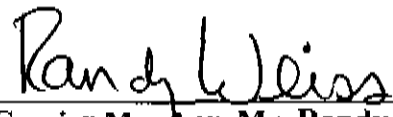
Based upon additional evidence, and joint communication between this Board and interested parties, we are persuaded that culpable employees are Conductor and Fireman-in-Training. Engineer Mitchell should be held blameless. This Board has been advised, also, that Engineer Mitchell has been returned to duty. Accordingly, he will be compensated for the time he was removed from service.

AWARD:

Claim is sustained per findings above. Carrier is directed to implement this award within thirty (30) days of execution by majority members of this Board.


J. E. (Jim) Nash – Arbitrator, Chairman and Neutral Member

 425-06
Employee Member, Mr. Lee Pruitt
Brotherhood of Locomotive Engineers &
Trainmen


Carrier Member, Mr. Randy Weiss
Union Pacific Railroad Company

April 25, 2006