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Award No. 11
Co. File 1260852
Org. File 28452

PUBLIC LAW BOARD NO. 6567

Parties:

Brotherhood of Locomotive Engineers
And
Union Pacific Railroad Co.

Statement of claim:

Claim of Engineer J.E. Kelso (hereinafter claimant) for compensation for all time lost including time for attending investigation, in connection with claimant assessment of Level 4 Upgrade with 30-day suspension. Further, claimants annual vacation rights to be restored. Additionally, claimants personal record to be expunged of any notation pertaining to this case

Background:

Claimant engineer entered carrier's service on February 6, 1995, and was promoted on May 28, 1998. On the date in question (February 14, 2001) claimant was operating as engineer on GSMRAC-12, between Dalhart, TX to Pratt, KS. En route, the crew, consisting of claimant and his Conductor R.L. Kessler received notice via radio from the train dispatcher. Said notice concerned a temporary speed restriction of 10 M.P.H. at milepost 430.1. When the train passed through Liberal, KS officers observed claimants train operating at a speed higher than that allowed by the speed restriction. The train was ordered to stop, at which time two (2) officers boarded the engine. The officers pulled the tape from the event recorder, which they downloaded into a laptop computer. The readings indicated the train was operated through the restricted area at 46 M.P.H. Upon questioning of the crew it appeared there was some confusion as to milepost locations. When the train arrived at Pratt, KS claimant was required to surrender his F.R.A. certificate.

Carriers position

The carrier officers became quite alarmed at seeing the train operating through Liberal, KS at a high rate of speed. The officers were not satisfied with the answers they received from questions to the crew. The reason for the speed restriction was a fuel oil spill requiring fire department and HAZ-MAT crews to clean up the area. Carrier officers feared for the safety of persons in the area.

Organizations position

The restricted area had no advance warning of yellow flags. The numbering of milepost lacks some consistency due to equation miles is listed in the timetable. The crew states they were confused and maintain that mileposts numbering is unusual.

Findings:

Fortunately, there was no damage or injuries associated with this incident. The carrier rules permit the issuance of temporary speed restrictions absent the customary yellow flags, providing the crews are so notified. This crew admits the dispatcher informed them there would be no yellow flags. The conductor made the proper notation on his trip report.

Claimant testified he was familiar with the rules and the territory involved. The board is not swayed by claimants claim of confusion. Therefore, we find no merit to claimant's argument. There exists no compelling reason to disturb carrier's imposition of discipline.

Award:

Claim denied

Leonard Foster
Leonard Foster, Neutral Member of the Board

1-30-03

Date