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Award No. 13
Co. File 1297222
Org. File 28559

PUBLIC LAW BOARD NO. 6567

Parties:

**Brotherhood of Locomotive Engineers
And
Union Pacific Railroad Co.**

Statement of claim:

Claim of Engineer R.L. Moore (hereinafter claimant) for compensation for all time lost, including time attending investigation in connection with assessment of Level 2 upgrade on January 22, 2002. Further, claimants vacation rights to be restored. Claimants personal record to be expunged of notation relative to this case.

Background:

On the date in question (December 13, 2001) claimant was operating on AMLKSB-11 between Dalhart, TX and Pratt, KS. When the train arrived at Pratt, KS carrier officer P.M. Brooks boarded the engine and pulled the tape, in order to check train speed over the district. Upon checking the tapes, it was determined the train possibly exceeded the posted speed in several locations on his road trip.

Carriers Position:

The evidence produced at the hearing convinced the carrier that claimant violated the posted speed over the district in several locations. Carrier states that operating at speeds in excess of that posted, is dangerous.

Organizations Position:

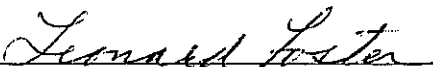
Claimant was operating a train authorized to operate at 70 miles per hour. Claimant states the maximum speed indicated by his speedometer was the permissible 70 miles per hour.. The engineer has only his speedometer and watch to check his speed. Even then, accuracy would depend on the milepost boards being 5,280 feet apart. Testimony of carrier officer Brooks (79-55) states the over speed device did not function because the speedometer did not read the true miles per hour. Mr. Brooks also testified the over-speed is set for 72 miles per hour, which is further proof that claimant was operating at a maximum 70 miles per hour.

Findings:

The Board finds that, in the absence of more credible evidence to show that the claimant violated the allowable speed, it has no recourse but to conclude that the claimant was not proved guilty. Therefore, the Board finds the discipline assessed, should be, and is hereby, set aside.

Award:

Claim sustained.



Leonard Foster, Neutral Member of the Board

2-24-03

Date