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Award No. 14
Co. File 1319213
Org. File 28649

PUBLIC LAW BOARD NO. 6567

Parties:

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

Statement of claim:

Claim of Engineer E.B. Ohman (hereinafter claimant) for compensation for all time lost including time attending investigation in connection with assessment of Level 4 Upgrade and 30 day suspension.

Background:

Claimant commenced service with the carrier in July 1961. On the date in question (February 1, 2002, claimant was operating on assignment No. LRJ86-01, between Ozol and Pittsburgh. The train stopped at Port Chicago in order to pick up one (1) car off the siding. Said pick up was picked up behind a handle of six cars. The move was accomplished without incident. The train then departed enroute to Pittsburgh. While performing switching moves at Pittsburgh the crew was informed by radio to remain there and wait the arrival of P.D. Schmidt, Manager Operating Practices. Mr. Schmidt arrived Pittsburgh, where he stopped the moves and informed the crew that a red block and unauthorized main track occupation had been reported at Port Chicago. Mr. Schmidt downloaded the locomotive event recorder and interviewed the entire crew. The crew was extensively interviewed collectively and individually. The crew was then removed from service and transported to Ozol, CA where they were subjected to urinalysis for drug and alcohol presence, for some unknown reason, claimant was notified that the incident was not considered a de-certification event as mandated by the Federal Railroad Administration

Carrier Position:

Trains are not to occupy a main track without authority. Trains must not pass a signal displaying a red aspect. Carrier asserts claimant operated past a red signal without permission from the central operator, thereby violating rules 6.3, 9.2.14, 9.12.2.

Organizations Position:

Claimant arrived at the Port Chicago on a clear signal, then after picking one (1) car the train departed Port Chicago on a clear signal. There was no westward move of train or locomotive while at Port Chicago. (Tr. 64). Simply put, there was no rule violation while performing at Port Chicago.

Findings:

The hearing on this case was most thorough and exhaustive. Move by move the work at Port Chicago was examined, searching for human failure to no avail. The tape, which was generated by the event recorder was scrutinized minute by minute. The information supplied by the crew corresponded exactly with the event recorder tape. The investigating officer found no discrepancies (Tr. 36). A most thorough examination of the transcript reveals one thing that impresses the Board, that is, the honesty displayed by the entire crew, including claimant. Another point of interest is the stated reports of previous signal seemingly malfunctions at this location in Port Chicago.

All the points considered, the Board finds the carrier has failed to prove its case. Therefore, the discipline assessed claimant must be set aside.

Award:

Claim as presented is sustained.

Leonard Foster
Leonard Foster, Neutral Member of the Board

7-26-03

Date