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Award No. 8
Co. File 1242355
Org. File 28354

PUBLIC LAW BOARD NO. 6567

Parties:

Brotherhood of Locomotive Engineers
And
Union Pacific Railroad Co.

Statement of claim:

Claim of Roseville Hub Engineer K.L. Czadzeck (hereinafter claimant) for compensation for all time lost, including time attending investigation in connection with assessment of Level 4 Upgrade and 30 day suspension. Further, claimants personal record to be expunged of any notation pertaining to this case.

Background:

Claimant entered carriers service on May 28, 1969 and was promoted in 1972. On the date in question (August 11, 2000) claimant was working yard assignment YUZ-11 in the San Jose, CA yard. During switching moves at the North end of the yard, three (3) cars became derailed in track No. 16. The carrier determined that the switch had been run through and derail occurred when a reverse move was made. Claimant was assessed a Level 4 Upgrade and a 30 day suspension. The switchman J.K. Price accepted his responsibility under the CORE program, therefore, appeared at the hearing as a witness.

Carriers position

Carrier asserts claimant was not alert and failed to note that switches were not properly lined for his movement. This resulted in a switch being run through causing a derailment when a reverse move was made.

Organizations position

Claimant was alert. He was operating an engine with the long hood forward position.

Both claimant and Foreman Price indicated that all switches were properly lined for their

switching moves. These moves were accomplished in broad daylight, therefore, the only visual obstruction would be the engine long hood obscuring the claimants sight.

Assuming arguendo the switch to track 16 had been run through, that could have happened by another crew or on another date. Simply put, the carrier has failed to prove its case.

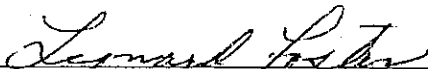
Findings:

Evidence adduced at the hearing was sufficient to find claimant culpable to a degree. However, a Level 4 Upgrade and 30 day suspension is, in the Boards opinion overkill. A more appropriate sanction would be Level 3.

Award:

Claim disposed of in accordance with the findings herein.

Carrier is directed to accomplish the above within 45 days



Leonard Foster, Neutral Member of the Board

1-27-03

Date