

SPECIAL ADJUSTMENT BOARD NO. 180

PARTIES TO THE DISPUTE:

UNION PACIFIC TRANSPORTATION CO.  
(WESTERN LINES)  
(Formerly Southern Pacific Transportation Company)

- and -

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

STATEMENT OF CLAIM:

Claim of Southwest Hub Engineer B.N. Coburn for reinstatement to service of the Company with full seniority and all other employment rights restored and that he be compensated for all time lost in connection with Claimant's assessment of UPGRADE Level 5, Permanent Dismissal, on August 21, 2000. Further, Claimant's annual vacation rights should be restored, and he should be compensated accordingly. In addition, Claimant's personal record should be completely expunged of any notation or record pertaining to this case.

OPINION OF THE BOARD: B. N. Coburn, ("Claimant"), who was first employed by Carrier on August 18, 1968 as a Western Region Locomotive Engineer assigned to Carrier's Tucson Service Unit, had more than 32 years of service when he was terminated after being found culpable of violation of Rule 6.31, "Maximum Authorized Speed", and Rule 31.9.2, "Emergency Application", as contained in the General Code of Operating Rules, effective April 2, 2000. Claimant, an experienced Engineer, was assigned Train IDALB-08 on August 9, 2000 when, at approximately 10:05 a.m. in the vicinity of Lisbon, NM, Mile Post 1161.2, he failed to control the speed of his train.

Claimant had in his possession Track Bulletin No. 28817 which dictated a 15 m.p.h. slow order between Mile Post 1161.2 and Mile Post 1161.0.

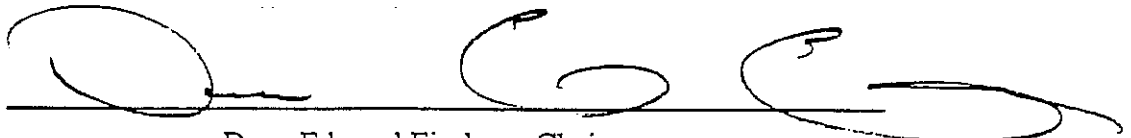
Claimant was duly notified of charges of failure to control speed of train through slow order while operating train IDALB-08, at Lisbon, New Mexico, near Milepost 1116.2 at approximately 10:05 a.m. on August 9, 2000, contrary to Track Bulletin #28817, between MP1161.2 and MP1161.0. Evidence adduced at the formal investigation of August 14, 2000, at which Claimant appeared with representation, establishes that Claimant was culpable as charged. In that regard, he frankly admitted "dozing off" into "micro-sleep" while at the controls before snapping awake after passing the yellow flag but just in time to reduce his speed from 76 to 54 mph as he entered the bridge and passed over it at excessive speed. Because Claimant was already at the Upgrade Level 4, he was terminated with a level 5 Upgrade.

The record shows no procedural or reversible error by Carrier in its handling of this dispute and the evidence is clear that Claimant failed to comply with a slow order of 15 MPH between Mile Post 1161.2 and Mile Post 1161.0 on the Lawrenceburg subdivision, that he passed a properly posted yellow flag without slowing his train and at the time he passed the yellow flag he was moving at 74 MPH. At the time that he entered the limits of the slow order his train was moving at 54 MPH, 39 MPH in excess of the 15 MPH speed restriction. Claimant committed an extremely dangerous violation of cardinal safety rules for which the imposition of serious disciplinary action was well justified by Carrier. Because of his 32-years of service and his frank admission of responsibility and because there is some indication in the record that Claimant may be suffering from a sleep disorder, the termination of his railroad career is modified to a suspension without pay for time held out of service. Carrier shall offer Claimant a "Last Chance" reinstatement, without back pay or benefits

but with seniority unimpaired, conditioned upon his enrollment in the EAP for sleep disorder examination and treatment and further conditioned upon his successful completion of routine return to work medical and rules examinations.

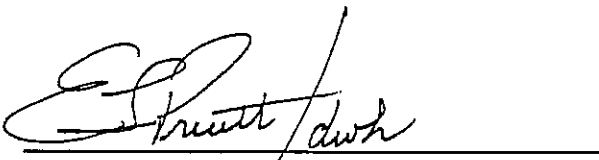
AWARD

- 1) Claim sustained to the extent indicated in the Opinion.
- 2) Carrier shall implement this award within thirty (30) days of its execution by a majority of the Board.



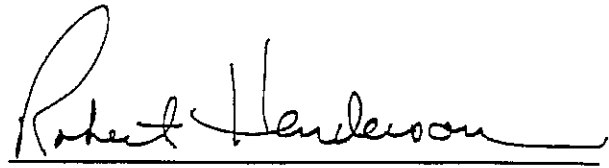
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Dana Edward Eischen, Chairman



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Union Member



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Company Member