

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 Roseville Hub Engineer R. W. McManus 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 December 7, 2001. 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.

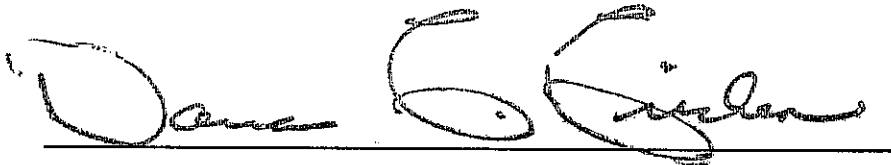
OPINION OF THE BOARD: Engineer R. W. McManus ("Claimant"), was sent a Notice of Investigation on July 17, 2001, charging him with allegedly failing to comply with instructions to provide current updated medical information as requested, a possible violation of Rule 1.6 "Conduct" and Rule 1.13 "Reporting and Complying with Instructions" as contained in the Union Pacific Railroad's General Code of Operating Rules effective April 2, 2000. Following four days of formal investigation, Carrier found him guilty as charged and assessed the Level 5 discharge penalty.

Due to evidentiary inadequacy and certain other deficiencies in the record, this Board concludes that Carrier failed to meet its burden of proof in this case. Accordingly, the discharge cannot stand and Claimant must be offered the opportunity to return to service with seniority intact and with "make-whole" back pay. It should be noted that in awarding such compensatory damages, this Board does not intend that Claimant be allowed to pyramid back pay damages or obtain double-

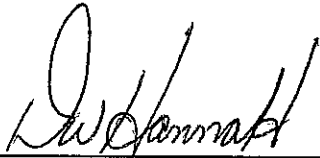
recovery, should he prove successful in his FELA claim for any part of the time period covered by our Award.

AWARD

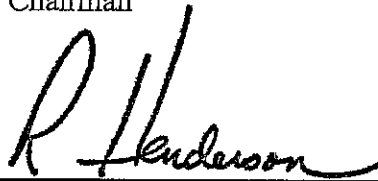
- 1) Claim sustained to the extent indicated in the Opinion.
- 2) Carrier shall implement this decision within thirty (30) days of its execution by a majority of the Board.



Dana Edward Eischen, Chairman



Union Member

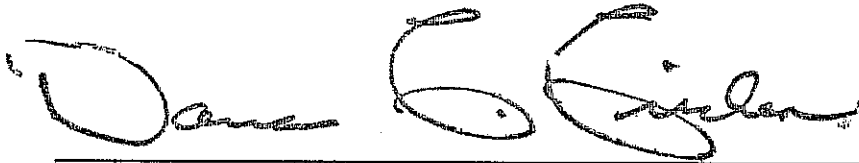


Company Member

and circumstances of this case, on a non-precedent, non-referable basis, the Level 5 discharge penalty is reduced to a Level 3 and Claimant shall be reinstated to service with seniority unimpaired if he passes all necessary return to work examinations, without back pay except for the last ninety (90) days of time out of service. At the conclusion of the August 19, 2002 session at which this case was heard, both Parties requested an expedited decision by the Board, with full Opinion and Award to follow as soon as possible. This Opinion and Award memorializes the bench decision rendered by the Board on August 19, 2003, which was confirmed by letter of the Chairman of the Board dated August 30, 2002.

AWARD

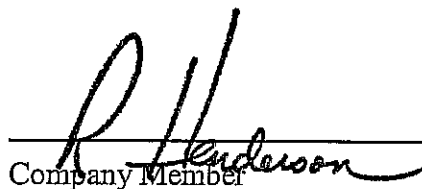
- 1) Claim sustained, in part and denied, in part, as indicated in the Opinion.
- 2) Based on the unique facts and circumstances of this case, without precedent and conditioned upon Claimant passing all return to work examination requirements, Carrier was directed on August 20, 2002 to reinstate Claimant to service at Upgrade Level 3 , with seniority unimpaired, but with back pay only for ninety (90) days of time held out of service.



Dana Edward Eischen, Chairman



Union Member



Company Member