

**SPECIAL BOARD OF ADJUSTMENT 1063**

**PARTIES TO THE DISPUTE:**

Brotherhood of Locomotive Engineers and Trainmen

AWARD NO. 673

CASE NO. 673

-- and --

Norfolk Southern Railway Company.

**STATEMENT OF CLAIM:**

Claim on behalf of Dearborn Division Engineer M. N. Maue for restoration to service and payment for all time lost in connection with failing to comply with passing a stop signal without proper authority in the vicinity of the North Lead, Mini Plant, MP B-247.8, Bellevue, Ohio at approximately 5:25 p.m., on September 17, 2005 while performing service as Engineer on Train W31B117.

**FINDINGS:**

This Special Board of Adjustment No. 1063 finds that the parties herein are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated October 25, 2005 the Carrier notified the Claimant, William N. Maue, that he had been assessed the discipline of dismissal from all service as follows:

Reference formal investigation held on October 10, 2005 at Norfolk Southern Conference Room, 3830 Corduroy Road, Oregon, Ohio to determine your responsibility, if any, in connection with your failure to comply with passing a stop signal without proper authority in the vicinity of the North Lead, Mini Plant, MP B-247, Bellevue, Ohio at approximately 5:25 P.M., on September 17, 2005 while performing service as Engineer on Train W31B117.

This investigation also considered whether your locomotive engineer certificate should be revoked for your alleged violation of FRA Regulation 49 CFR 240.117 (c) (e) (1) in connection with this incident.

The transcript of the investigation and the exhibits therein clearly revealed that you failed to comply with signal indications and passing a Stop Signal in the vicinity of the North Lead, Mini Plant, MP B-247.8, Bellevue, Ohio, at approximately 5:25 P.M., on September 17, 2005 while performing service as Engineer on Train W31B117.

Further, the investigation proved that you were in violation of Federal Regulation 49 CFR 140.117 (c) (e) (1) in connection with this incident.

For your responsibility in connection with the above incident, you are hereby dismissed from all service with the Norfolk Southern Railway. For your violation of FRA Regulation 49 CFR 240.117 (c) (e) (1), your locomotive engineer certificate is hereby revoked for a period of thirty (30) days, beginning September 18, 2005 and ending October 17, 2005. Please make arrangements to return all material/equipment issued to you by the company.

Transcript and exhibits attached.

s/Derrick B. Mann,  
Terminal Superintendent

The Organization appealed the discipline and the matter has been progressed to this Board for adjudication.

Substantial evidence of record supports the Carrier's determination that Engineer Maue passed a stop signal without proper authority on September 17, 2005. Mr. Maue was operating Engine 8655 short nose west, operating from the south-side. Assistant Superintendent D.C. Morgan who was called to the scene to investigate the matter testified that it was a panoramic view "... and you had a

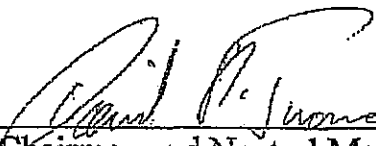
window across the front of the engine" (Tr-12). The Claimant himself testified that he did not observe the signal indication at the Mini Plant (Tr. 29). And, Mr. Maue testified that he was west (past) the signal at the Mini Plant before bringing his train to a stop by some 21 feet (Tr. 31). We find that the Carrier has met its' burden of proof in this case.

We believe that the discipline has now served its purpose. Mr. Maue shall be returned to service with all rights unimpaired without back pay subject to all Carrier requirements for return to service.

AWARD

As per findings.

ORDER: The Carrier is required to comply with this award within thirty days.

  
Chairman and Neutral Member

  
Employee Member

  
Carrier Member

Dated: 3-2-07

