

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers and Trainmen

and

Norfolk Southern Railway Company

STATEMENT OF CLAIM:

Appeal on behalf of Trainman B. A. Graham, Piedmont Division, Danville, for restoration to service with seniority/vacation rights unimpaired, pay for all time lost and all references to this incident removed from his personal work record in connection with alleged involvement in Train M7MPA08 passing a Stop signal without authority at Huddleston, MP V-211.7, June 9, 2006, while serving as Brakeman on Train M7MPA08. The investigation was concluded July 10, 2006. Article 31, Schedule Agreement..

OPINION OF BOARD:

On June 9, 2006, the crew on Train M7M, consisting of Engineer, Conductor and Brakeman, were en route from Linwood, North Carolina, heading west toward Roanoke, Virginia. They received a signal at a point identified as Amos Branch, Virginia, MP V209.9. The signal was identified as Clear by the Conductor, however it was not seen by either the Engineer or Brakeman. The Engineer inquired as to the signal aspect after passing it and he was told it was clear. The train came off of a curve just east of Huddleston, MP V211.7, where the crew observed a Stop signal. The Engineer immediately placed the train in emergency, however, they went by the signal by four or five car length. The Engineer also noticed that the switches were not in correspondence with his move, but rather for eastbound Train 960, who had an Approach at Huddleston. The Engineer took immediate action by calling the Train Dispatcher and the crew on 960, by radio, to alert them that they were by the signal.

A comprehensive investigation was undertaken by Carrier to develop the facts and determine the cause for M7M going by a Stop signal without authorization. The crew members were interviewed separately and each gave their version of the incident. The Engineer admitted he did not see the signal aspect displayed at Amos Branch, because he was other-wise engaged in manipulating his "foot counter",

so he could be prepared to comply with slow orders, if and when they might receive them. He stated that he heard the Conductor call the signal clear and when he raised his head, they were already by the signal. The Conductor's statement was they had a Clear signal and that was what he called and what he told the Engineer when he asked. The Claimant Brakeman's story was that he was busy looking at his Time Table to determine speeds and other matters related to the area they were passing through, and for that reason, he did not see the signal nor was he certain he heard the Conductor call the signal.

The investigating team thought there were some obvious discrepancies between the Conductor's reading of the signal aspect when compared to the physical evidence they discovered at the site, which showed a Stop signal at Huddleston, with the railroad lined for an eastward opposing movement on the siding.

As is customary in Stop signal issues, the Carrier makes a thorough investigation of the various disciplines that might be involved, including the Train Dispatcher's voice tapes, documentation of signal system logs for the signals at Amos Branch and Huddleston, the event recorder tapes from the locomotive units, for the purpose of checking train speed and other relevant data such as the use of the train's braking system. It was determined that the crew had a sight distance of 370 feet for the signal at Amos Branch, which was equated to seven to eight seconds, if running at a speed of 33 mph, and a sight distance of 930 feet to the Stop signal at Huddleston. In summarizing their findings, Carrier concluded that contrary to the Conductor's statement, Train M7M had an Approach signal at Amos Branch and the crew, including Claimant Brakeman, had failed to take appropriate action to reduce the speed in compliance with Operating Rules, while preparing to stop at the next signal, Huddleston. The Carrier asserted that their joint failure to act caused them to go by the Stop signal, while placing them in the path of an eastbound train.

The Carrier, with the stated facts in hand, charged the crew of M7M with various Operating Rules violations, scheduled a trial which eventually was concluded with a decision to discharge the entire crew.

This case represents the appeal of the Brakeman from the discipline of dismissal. As noted hereinabove, the Claimant's excuse for missing the signal at Amos Branch was that he was engaged in reviewing his Time Table, in order to determine the appropriate speed limits and other pertinent data, which he considered to be job related. The Claimant had been in Carrier's service a total of eight months when the present situation occurred. His testimony at the trial gives evidence of his immaturity on the job, although he was unstinting in his praise for the Engineer's ability to react in a most positive way, when the possibility of a collision was imminent.

Although the record is quite extensive, and at times repetitious, we believe the Carrier presented substantial evidence to prove the signal aspect at Amos Branch was Approach, but misread by one of the crew, who called it clear. From that point, exciting things started to happen, because the remaining crew members failed to observe the age-old rule "when in doubt, take the safe course." In this case that rule would have been to consider an "unseen" signal as the most restrictive, being prepared to stop at the next signal. The Claimant, to be sure, will remember that, as he matures and gains experience on the job. It is said that experience teaches slowly and at the cost of mistakes.

In our opinion, the Claimant deserved to be disciplined, however, considering his woeful lack of railroad experience and short span of service with the Carrier; we feel that discipline of discharge was excessive. In our judgement, ninety days actual would be sufficient, considering all the circumstances.

FINDINGS: Claim is sustained for all time withheld from service in excess of ninety days, with deduction of outside earning, if any.

AWARD: Claim sustained as modified by the Opinion and Findings.

ORDER: The Carrier will place this Award into effect within thirty days of the effective date.

Dated in Norfolk, Virginia, this 14<sup>th</sup> day of March, 2007.

W. F. Euker  
W. F. Euker, Neutral Member

S. R. Budzina  
S. R. Budzina, Carrier Member  
*Dissent to Reinstatement and pay in excess of 90 days 4-30-07*

M. J. Ruff  
M. J. Ruff, Organization Member  
*Dissent to the deduction of outside earnings.*

Carrier File: ZT-DANV-06-01  
Organization File: ZT-DANV-06-01

