

PARTIES TO DISPUTE:

SOO LINE RAILROAD COMPANY
AND
BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

STATEMENT OF CLAIM:

"Claim on behalf of Engineer Daniel E. Uscian for removal of 5 days actual suspension and pay for all time lost and loss of other benefits associated with discipline assessed for violation of Rule 7.1 of the General Code of Operating Rules and Timetable Special Instructions 1.48 following formal investigation conducted on April 16, 2004."

FINDINGS:

On Thursday, April 8, 2004, at approximately 07:45 hours, Engineer Uscian was working Assignment GY11 at the Bensenville Intermodal Facility on Tracks PBO and PBD. He was involved in switch operation that required moving cars between tracks PBD and PBO. During the process, cars on track PBD were left out to foul track PBO. Cars on track PBO were not adequately secured. As a result, cars rolled eastward and collided with cars on track PBD.

On April 12, 2004, Carrier mailed Engineer Uscian a letter, advising:

"This will serve as your notification to attend a formal investigation/hearing to be held in conference room #224 of the Canadian Pacific Yard Office, 11306 Franklin Avenue, Franklin Park, IL, at 10:00 hours on Friday, April 16, 2004 for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with:

'Your alleged failure to properly secure rail equipment and communicate such securement which resulted in the collision of DTTX 620292 and CP 524325.

This incident allegedly took place at the Bensenville Intermodal Facility on Tracks PBO and PBD.

The time of this alleged incident was approximately 07:45 hours on Thursday, April 8, 2004, while employed on Assignment GY11'."

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On April 16, 2004, the Carrier convened formal investigation. After formal investigation, Carrier found Engineer Uscian responsible for violating rules, as charged. Upon a finding of responsibility, Carrier assessed discipline at five days actual suspension.

Discipline was appealed and denied in accordance with the labor agreement. Parties have been unable to resolve this dispute on property, and it comes, now, before this Board for final and binding adjudication.

During the formal investigation, Carrier established that Engineer Uscian was in physical control of train when collision occurred. Carrier took the position that crew members work as a team, and for that reason Engineer Uscian must share the responsibility for the rules' violations and mishap.

The Organization maintained that during the job briefing, tasks were assigned each crew member; and that lining switches, securing cars and ensuring track PBD did not foul track PBO were tasks assigned and agreed to by other crew members. The Organization made the additional points that Engineer Uscian was 15 cars away and was unable to discern whether track PBD was clear of track PBO; and that Engineer Uscian, reasonably, relied on advice emanating from other crew members.

OPINION OF THE BOARD:

We have read the evidence of record and thoughtfully considered the positions staked out by both parties.

We agree with the Carrier that crew members work as a team, and, generally, are jointly responsible for safe execution of job responsibilities. The primary reason for the initial job briefing and constant updates when job conditions change is to promote and encourage cooperation and the team concept.

But, at some point, there must be a line of demarcation between individual and team responsibilities. That is so, as here, to prevent punishing the conscientious employee for the mistakes of negligent team members; or in other instances, to avoid the temptation to assess mass discipline to the entire team for the oversight of a single crew member.

In making a determination as to where the blame lay, we relied heavily on the evidence of record disclosing the understanding reached between crew members during the job briefings. The Conductor and Brakeman were responsible for making the cut and


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assuring tracks were secured before continuing switching operations. We noted, also, that Engineer Uscian was 15 cars from location where incident occurred. From his perspective, he could not discern whether cars on the adjacent track were in the clear. He had no alternative but to take instructions from other crew members.

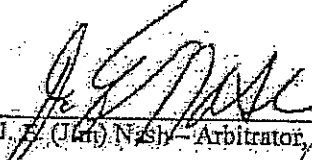
In the case at hand, we believe Carrier erred in assigning responsibility for rules' violations to Engineer Uscian; discipline assessed must fall.

AWARD

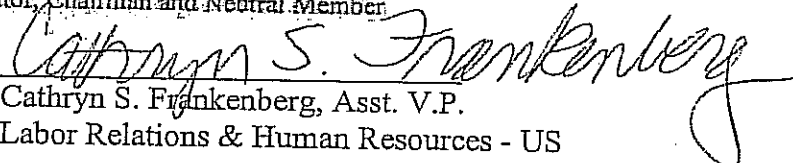
Claim sustained for reasons outlined, above. Carrier is directed to implement this award within thirty (30) days of execution by majority members of the Board.



Employee Member, D. L. McPherson
International V.P. B.L.E.



J. E. (Jack) Nash - Arbitrator, Chairman and Neutral Member



Cathryn S. Frankenberg, Asst. V.P.
Labor Relations & Human Resources - US

Dated 3/06/07

