

**PUBLIC LAW BOARD NO. 6649**

**Award No.  
Case No. 15**

**PARTIES TO DISPUTE:**

**(Brotherhood of Locomotive Engineers  
(Kansas City Southern Railway Company**

**STATEMENT OF CLAIM:**

**Claim of Engineer Mark A. Roberts for removal of Letter of Reprimand from his personal record and pay for all time lost in connection with an investigation held in Wylie, Texas, on February 3, 2004.**

**FINDINGS**

**Upon the whole record and all the evidence, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.**

**Claimant, while unloading two grips from the back of a van, heard a popping noise in his knee and felt, what he describes, as a severe pain.**

**He did what the Rule says; he immediately filed an Injury report. The incident was immediately investigated with a reenactment of what took place. At the conclusion of the reenactment, those officials assumed that when Claimant was removing the second grip, he failed to pivot on his right foot, causing the knee to pop.**

**An Investigation was convened:**

**"Arrange to be present in the Trainmaster's Office, 3939 Skyview Court, Wylie, TX at 1300 hours on January 30, 2004, for a formal investigation to ascertain the facts and determine your responsibility, if any, in connection with your alleged failure to perform your job in a safe manner when**

attempting to remove your grips from the back of the BNSF yard van, resulting in you sustaining an alleged personal injury. This incident occurred at Alliance, TX at approximately 1455 hours on January 16, 2004, while serving as Crewmembers of the I-SHAL.

The Carrier will have as witness(es), Mark Dabney, Jerry Littlefield, Jon Delcore and additional witnesses may be called. If you desire representatives and/or witnesses, you may make arrangements in accordance with your applicable schedule of agreement."

Following the investigation, the Carrier believed it had furnished sufficient evidence of Claimant's culpability for the charges assessed and disciplined Claimant by placing a formal reprimand in Claimant's disciplinary file.

The Board cannot agree that sufficient evidence was presented that warranted any discipline whatsoever. The Carrier officials could only assume that Claimant failed to pivot his right leg when removing the second of two grips from the van.

The filing of Form 88-D was done by Claimant only to protect himself should on the following day he still have pain and would find it necessary to seek medical services. He did not lose any time, nor did the "injury" progress to anything other than this investigation.

When Claimant stated, if he wanted a day to find whether he might have really hurt himself, the investigation would be for a late filing and the consequences could result in a much stronger action other than here concerned.

All traces of this incident are to be removed from Claimant's file and the record mark is to be obliterated.

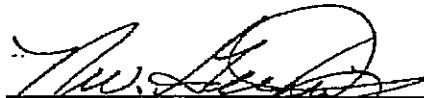
**AWARD**

Claim sustained

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the award effective on or before 30 days following the date the award is adopted.

  
Robert L. Hicks, Chairman & Neutral Member

  
Merle W. Gelger, For the Employees

  
George Lelf, For the Carrier

Dated: July 11, 2007

