

PUBLIC LAW BOARD NO. 8907

Award No.
Case No. 3

(Kansas City Southern Railroad

PARTIES TO DISPUTE:

(Brotherhood of Locomotive Engineers & Trainmen

STATEMENT OF CLAIM:

Claim of Trainman Corey S. Johnson for removal of 30-day actual and 45-day deferred suspension and pay for all time lost in connection with an investigation held in E. St. Louis, on June 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 was called to report for work at 1825. He did not report until 1845. When asked why he was late, he said he was on time. He was called to report at 1845.

An investigation was scheduled where the taped conversation between the caller and Claimant was played. The caller clearly stated Claimant was called for 1825. Claimant repeated the 1825 report time.

Although Claimant's Representative attempted to mitigate or even nullify the charges, there is nothing to argue about regarding the merits. The tape was clear. The call to work was to report at 1825, not 1845 as Claimant said.

Claimant is a relatively new employee having established seniority on March 5, 2003. Since he has hired out, he has been disciplined three other times for similar

conduct. The assessment of 30 days actual suspension is not out of line. Perhaps now Claimant must realize he must report for work at the time called. Repeated incident such as this could lead to the ultimate discipline of dismissal.

This Board does believe, however, that the 45 days deferred assessed with the 30 actual is excessive. The 45 days deferred is to be deleted from his record. The 30-day actual stands.

AWARD

Claim sustained as provided in the Findings.

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
Robert L. Hicks, Chairman & Neutral Member

Merle Geiger
Merle Geiger, For the Employees

George F. Leit
George F. Leit, For the Carrier

Dated: 2-9-06