

PUBLIC LAW BOARD NO. 4901

AWARD NO. 175

CASE NO. 175

PARTIES TO
THE DISPUTE: United Transportation Union

vs.

The Burlington Northern Santa Fe Railway Company
(ATSF Coast Lines)

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim denied

STATEMENT OF CLAIM:

“Request in behalf of Conductor L. A. Hull for the removal of the Level S Thirty (30) day Suspension, in addition, the three (3) year probation period and exoneration of the alleged violation of Rules 1.1, 1.1.1, 1.2.9, 1.4.7, 5.21, 5.16, and 9.2 of the General Code of Operating Rules, third Edition, effective April 10, 1994, Rule S-1.2.3 of the Safety Rules and General Responsibilities for all Employees, effective March 1, 1997, and Rule 9.1.15 of Time Table Special Instructions all Subdivisions No. 2, in effect March 1, 1997, from the Claimant’s personal record and the Claimant be allowed all time lost as a result of the Formal Investigation conducted on January 12, 1998.”

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

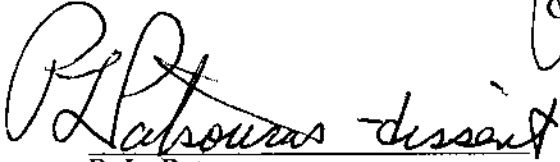
Claimant was assessed a Level S 30-day disciplinary suspension for passing through a stop signal while serving as Conductor on December 7, 1997. At the time of the incident, Claimant had not quite 3 years of service. His prior record contained a deferred suspension for running through a switch.

Our review of the record discloses no procedural shortcomings of significance. Given Claimant’s acknowledgment the he and the engineer had observed the wrong signal and that the correct signal displayed a stop aspect, it was not necessary for Carrier to produce certain witnesses. Moreover, the hearing officer recessed the hearing several times to accommodate the Organization’s requests for unplanned witness testimony.

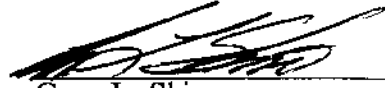
We find the record to contain substantial evidence in support of the Carrier’s culpability determination. Given the nature of the misconduct involved, and in consideration of the context in which it occurred, we find the disciplinary penalty to be commensurate and consistent with Carrier’s Employee Performance Accountability program.

AWARD:

The Claim is denied.



P. L. Patsouras,
Organization Member


Gerald E. Wallin, Chairman
and Neutral Member

Gene L. Shire,
Carrier Member

DATE: OCT 17, 2002