

PUBLIC LAW BOARD NO 7026

AWARD NO. 16

CASE 16

PARTIES TO
THE DISPUTE

UNITED TRANSPORTATION UNION
(COAST LINES)

VS.

BNSF RAILWAY COMPANY

ARBITRATOR: John L. Easley

DECISION: Claim Denied

DATE: July 7, 2008

STATEMENT OF CLAIM:

Claim of Southwest Division Conductor W. T. Davis for removal of Level S, record suspension of thirty (30) days from his personal record and pay for any time lost attending the investigation.

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 the agreement of the parties, that the Board had jurisdiction over the dispute, and that the parties were given due notice of the hearing.

On February 28, 2006, Conductor W. T. Davis hereinafter referred to as the Claimant, was instructed to attend a formal investigation as follows in pertinent part:

“Attend formal investigation at the BNSF Conference Room, 1535 North Park Drive, Winslow, Arizona, on Wednesday, March 22, 2006, at 1:00 p.m., with your representative and witness(es), if desired, to develop the facts and place responsibility, if any, in connection with possible violation of Rule 1.47 of the General Code of Operating Rules, Fifth Edition, effective April 3, 2005, as supplemented or amended; and Item 43 of the BNSF System Special Instructions All Subdivisions No. 11, effective October 30, 2005, (revised January 30, 2006) and as supplemented or amended;

concerning your alleged failure to properly complete signal awareness form while you were working as conductor on Train H-KCKBAR9-21 at approximately 1.05 a.m. February 23, 2006, on the Gallup Subdivision, Southwest division."

The Claimant was called for train H-KCKBAR9-21 on duty in Belen New Mexico at 4:15 P. M. February 22, 2006, prior to departure he and Locomotive Engineer G. W. Wolfe were traded to train H-SLVBAR3-20-A. They completed an uneventful trip arriving in Winslow Arizona at 1:05 A. M. the following morning. On arrival the Claimant was met by Road Foreman of Engines J. C. Polston who asked him to take his Signal Awareness Form to the office and give to R F of engineers E Kirkwood. The Claimant complied and as R F of E Kirkwood was on the phone, he completed his work and went home.

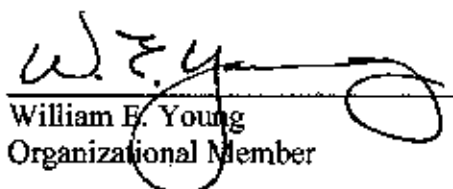
During the hearing it was brought out that the Signal Awareness Form submitted by the Claimant lacked required detail, such as train symbol, ETD number, call time, departure time, train make up tons, empties, loads, train length, train speed at required locations and no mention of having traded trains.

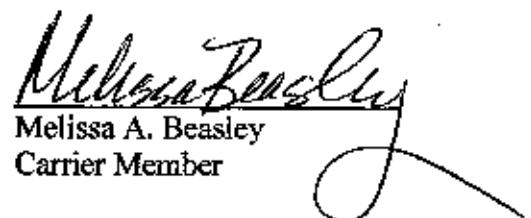
The Claimants representative argued that the Claimant had never been instructed on the proper method of completing the form and that he had previously completed many forms in this manner without censure.

The Claimant an employee with 28 years of train and engine service is expected to be able to maintain a simple form that only requires him to make entries at given locations expressed on the form. The Board finds that the Claimant did not comply with the requirement of Special Bulletin No. 43.

AWARD: Claim Denied.


John L. Easley, Chairman
And Neutral Member


William E. Young
Organizational Member


Melissa A. Beasley
Carrier Member