

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 6672**

Parties to Dispute:)	
)	
UNITED TRANSPORTATION UNION)	<u>OPINION AND AWARD</u>
)	
and)	CASE No. 12
)	
THE BURLINGTON NORTHERN AND)	Claimant T. H. Goggins
SANTA FE RAILWAY COMPANY)	
)	
)	

STATEMENT OF CLAIM:

“Claim in behalf of Havre, MT Conductor T. H. Goggins for complete record clearance of the entire incident account thirty (30) day record suspension for alleged violation of GCOR Rule 6.31 (alleged exceeding maximum speed) on September 11, 2000.”

FINDINGS:

The Board finds that the parties herein are Carrier and Employee as defined by the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; and that due notice of the hearing thereon has been given to the parties.

According to the transcript of formal hearing conducted on September 27, 2000, Claimant was hired by Carrier as a system gang employee on June 10, 1971 and transferred into train service in 1996. On September 11, 2000, Claimant was working as a Conductor out of Havre, MT on Train G HWMINB operating from Havre to Whitefish, MT. With the train exceeding 100 tons per operative brake, it was operating under Special Instructions, its speed limited to 45 miles per hour.

When Road Foreman Randy Wolff was called to assist with a problem the crew on Claimant’s train had experienced, he contacted the crew by mobile radio, got the problem under control and then met with them when they arrived at Whitefish around 1615 hours. After discussing the matter with the crew, he removed the event recorder from the lead locomotive and in the process of analyzing the data determined that train speed had

reached 65 miles per hour at one point. The following day the crew was interviewed again and Engineer Vaughn admitted that his speed “had gotten away from him” as he looked out his window for a whistle post or block signal in thick fog with 120 feet of visibility, losing track of where he was as he went down grade. Claimant Goggins stated that after just speaking with the dispatcher he noticed the excessive speed and advised the Engineer to “grab some air.”

Although the substantial record is replete with additional detail concerning the incident, the record establishes convincingly that an over speed incident occurred on the date at issue. There is considerable debate concerning how long that violation lasted, but whether it was one minute, twenty-five seconds or over 6 minutes; whether it was 62 or 65 miles per hour; and whether this was a single incident or simply the most pronounced among several others in a trip lasting eleven hours, forty-five minutes, there is no question but that Carrier’s Hearing Office had ample reliable evidence on which to base his finding that Claimant violated GCOR 6.31 in this instance. That Rule reads in pertinent part:

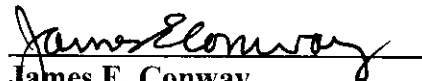
“Conductors and engineers are jointly responsible for knowing and not exceeding the maximum authorized speed for their train. Passenger speed is applicable only to trains consisting entirely of passenger equipment.


When possible, crew members must notify the train dispatcher promptly of any condition that will delay or prevent their train from making the usual speed.”


The presence of heavy fog in the early morning hours of September 11 does not explain this serious incident nor operate to excuse Claimant’s apparent inattention. On the other hand, at the time Claimant was cited he had a 28-year discipline free record. Additionally, during the eight years elapsed since this event he has apparently continued to perform at an entirely satisfactory level. Under the circumstances, with Claimant now laying claim to 36 years of excellent service save for this isolated lapse, the Board concludes that Carrier’s disciplinary action, while justified, has clearly served its intended purpose of reminding Claimant of the serious responsibility Conductors bear for safe train operations.

A W A R D

The Claim is sustained. All references to this violation and the thirty (30) day day record suspension related thereto will be cleared from Claimant’s service file.


James E. Conway
Chairman and Neutral Member


Jay Schollmeyer
Employee Member
Feb 24, 2009
Dated: ~~November~~, 2008
Great Falls, VA


Roger A. Boldra
Carrier Member