

SPECIAL BOARD OF ADJUSTMENT NO. 423

PARTIES TO DISPUTE: UNITED TRANSPORTATION UNION
VS.
PORT TERMINAL RAILROAD ASSOCIATION.

STATEMENT OF CLAIM: Protest of UTU-T and its Yardmen
against the unjust suspension of Yardman
L. J. Haas for ten (10) days and that he be paid for all time
lost, including time spent in the investigation.

STATEMENT OF FACTS: Claimant was suspended from the service
of the Carrier after an investigation
properly held wherein he was found guilty of violating Port Termi-
nal Railroad Association Rules and Regulations, Rules 26 and
36(A).

FINDINGS: Claimant was working as Engine Foreman
on Job 253 on July 20, 1981, when during
his tour of duty the engine was run through a gate. Essentially
Claimant was held responsible for not keeping a proper lookout so
as to prevent the accident. The Claimant takes the position that
because the light on the gate was not working and due to the
unfortunate placement of the gate, the Carrier bore sufficient
responsibility for the accident so as to preclude it from laying
the blame on the Claimant.

We agree with the organization in this
matter. The Carrier has not met its burden in showing that Claim-
ant's actions were violative of the Rules cited. There was not
sufficient evidence of probative value presented to support the
charge. It appears that the circumstances combine to produce an
unfortunate result which we commonly refer to as an accident.

AWARD: Claim Sustained.

Carrier is directed to pay this Award within thirty (30)
days.

Issued at Houston, Texas, this 29 day of June,
1984.


Robert A. Franden, Neutral


G. T. DuBose
Employee Member


T. M. Stone
Carrier Member