

PUBLIC LAW BOARD NO. 4066

Joseph Lazar, Referee

AWARD NO. 4

CASE NO. 4

PARTIES) UNITED TRANSPORTATION UNION
TO) VS
DISPUTE) BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of Yardman D. L. Horner, Memphis Terminal, claiming one day at yard rate of pay, February 15, 1985, "account not called to perform yard service."

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated February 25, 1986, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

The Board finds that on the claim date Train 174 departed Yale Yard, leaving behind an improperly aligned main line switch. Later, after discovering the problem, the Train Director requested that Yardmaster realign the switch to its normal position, and the Yardmaster did so. This was pursuant to Rule 104(B) of the Consolidated Code of Operating Rules:

"104(B). MAIN TRACK SWITCHES: The normal position of a main track switch is for main track movement and it must be left lined and bcked in that position....".

There is no evidence of record to show that the throwing of this switch by the Yardmaster expedited a switching move of a yard assignment or assisted a crew, yard or road, in any way. The Yardmaster acted to eliminate a clear potential danger. In the special facts and circumstances of this particular case, especially recognizing the potential danger of the improperly aligned main line switch, it was not a violation of Article 27, Section A of the Yardmen's Schedule for the Yardmaster to realign the switch to its normal position.

A W A R D

1. The Carrier is not in violation of the Agreement.
2. The claim is denied.

Joseph Lazar
JOSEPH LAZAR, CHAIRMAN AND NEUTRAL MEMBER

J. A. Alford (dissent)
J. A. ALFORD, EMPLOYEE MEMBER

W. M. Schubert
W. M. SCHUBERT, CARRIER MEMBER

DATED: August 14, 1987