

PUBLIC LAW BOARD NO. 2143

AWARD NO. 322

SEABOARD COAST LINE RAILROAD CO.

VS.

UNITED TRANSPORTATION UNION

STATEMENT OF CLAIM: Claim of Trainman J. Moore for pay for all time lost to attend investigation; pay for all time lost serving ten (10) days' suspension; and that all reference to discipline assessed by letter of June 25, 1979, be removed from Trainman Moore's personal record.

FINDINGS: On May 20, 1979, Mr. Moore was the regularly assigned brakeman on the Rockland Road Switcher working out of Mulberry, Florida. After reporting for duty on the morning of such date Brakeman Moore and Engineer J. E. Taylor proceeded to the so called "loop track" for the purpose of obtaining two locomotive units for their use during their tour of duty. As a result of ensuing events, a formal investigation was held on May 31, 1979, and Trainman Moore was suspended for ten (10) days for violation of Operating Rule 103-A. An adequate description of such events, together with claimed justification for carrier's assessment of discipline, is contained in Superintendent Cherry's position outlined in the joint submission prepared by the parties. We set out such position in full:

Operating Rule 103-A reads: "Cars and engines left on tracks must be properly secured, clear of insulated joints, and clear of other tracks where conditions permit; and when practicable, cars and engines should be left at least 100 feet from a public crossing."

The transcript of investigation indicates the sideswipe occurred during the time the Rockland Switcher was in the process of switching a set of engines from a track known as the "loop track" for their assignment. The capacity of this track is eight (8) engines, four (4) on either side of the crossing. The set of engines was positioned between two singles near the south end of the loop track. The track north of the crossing was clear. The crew members indicated their intentions were to move the three north engines out and around to the south end of the loop track and couple one engine to the 800 left in the track. This would provide them with the set of engines needed for their train.

While this was being made and after the crew had cut off from Engine 800 (engine to be left in track) another assignment moved through the crossover, by the south end of the loop track, and Engine 800 rolled out into the side of this train, causing a sideswipe and derailment.

The transcript developed Engine 800 was not equipped with a hand brake and the engine was shut down, which indicates there was not effective air brakes. The only way to secure the engine was by chocking the wheels. The crew was aware of these conditions and Trainman Moore indicated he chocked the second wheel with a short piece of 4 x 4, which he applied across the rail.

Claimant Moore has been in train service about 8 years and has sufficient experience to know that such a chock would not suffice; therefore, should not have detached the engine until he was absolutely sure it was properly secured as required by Operating Rule 103-A (quoted above).


Claimant Moore was disciplined with ten (10) days actual suspension for failure to comply with Rule 103-A.

It will be noted that Superintendent Cherry states, "the only way to secure the engine was by chocking the wheels." In spite of this fact, and in spite of the fact that carrier had provided no chocks for

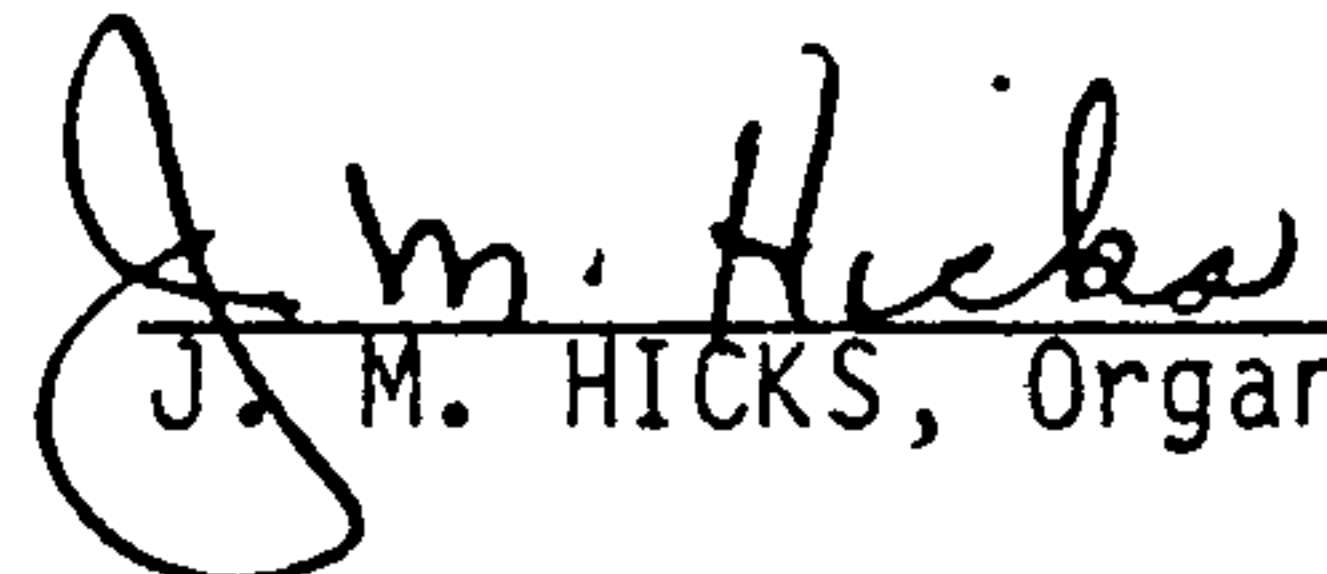
use under such circumstances, carrier places total responsibility upon claimant to ensure against a roll-out. Even after the fact carrier provided no explanation of exactly what it expected of claimant under the existing circumstances. Was he to leave the scene in search of adequate chocks? Carrier does, after the fact, contend that Mr. Moore should have placed the only available chock, a 4 x 4 approximately 6 or 7 inches long, parallel with the rail. We find no support for this argument in the record.

Rule 103-A is a most important rule, and it must be enforced; however, we hold that under the peculiar circumstances before us it was incumbent on carrier to either provide adequate chocking material or explicit instructions as to how Engine 800 should have been "properly secured".

AWARD: Claim sustained. Carrier shall make this award effective within 30 days from date hereof.


DAVID H. BROWN, Neutral Member


R. O. KEY, Carrier Member


J. M. HICKS, Organization Member

September 4, 1984