

Award No. 154  
Case No. 206  
UTU File No. 662  
Carrier File No. 340 6081

PUBLIC LAW BOARD NO. 596

PARTIES TO DISPUTE: United Transportation Union (C-T)  
vs.  
Missouri Pacific Railroad Company

STATEMENT OF CLAIM:

Claim for the removal of 15 deferred days assessed Foreman J. S. Grzesiak and Helper, F. King with pay for all time lost and all rights unimpaired.

STATEMENT OF FACTS:

Claimants were working on the 4 PM 3rd East Bowl Job #213 at approximately 7:30 PM September 30, 1981. They coupled and doubled 34 cars from Bowl tracks 22 and 23, shoved toward 103 rail to couple into caboose 13348, stretched their cut ahead one car length, shoved westward, and caboose 13348 derailed and traveled some 3 car lengths before Claimants were able to stop the cut.

It is stated throughout the transcript of investigation that the draw bar between the cut of cars and caboose 13348 bypassed, however, it is undisputed that Claimants "stretched" the cut and moved the caboose eastward one car length, then proceeded westward when the derailment occurred.

The crew in this case was switching at night, or very late evening. The automatic coupler was apparently operating properly as above moves seemed to indicate. There is no evidence in this case of rough handling, the cut had been "stretched" and all cars moved, indicating to a fair degree that it was safe to make the additional coupling without walking the intervening 34 cars to observe same; and to shove the cut into coupling with the caboose.

FINDING:

An almost identical dispute was considered by the First Division, National Railroad Adjustment Board, with Referee Walter L. Gray. Quoting the material part of that decision:

"This docket is concerned with request for removal of reprimand from the service record of Brakeman W. L. Danley. Brakeman Danley was reprimanded following an investigation held on December 30, 1953, for an accident that occurred on December 12, 1953. The following notation was placed on Brakeman Danley's service record:

"12/12/52 - Cambridge, O. On this date, W. L. Danley while assigned to Extra West Engine 4495 as flagman, he attempted to make coupling on track No. 2, which failed to make, and rear car ran off end of track and struck, and dented automobile parked in close proximity thereto. He would not admit being responsible for violation of Operating Rule 95. Held responsible for derailment and damage to automobile.

" Reprimanded and cautioned for the future."

"Reviewing the transcript of the investigation leads us to the conclusion that there is nothing contained therein to indicate any operating rule violation by Brake-man Danley. The proximate cause of the accident was the failure of the cars to couple when Danley attempted to couple his caboose onto the cars standing on track No. 2. If the coupling had not 'failed to make' it is quite evident the accident would not have occurred.

"Under the circumstances, we believe that the request of the Petitioner should be granted.

"AWARD: Claim for removal of reprimand sustained.


"National Railroad Adjustment Board  
By Order of First Division

Attest: E. A. Killeen  
Acting Executive Secretary

"Dated at Chicago, Illinois this 11th day of May 1962."

This Board notes the foregoing with approval and finds the findings and ruling in said First Division case as set forth by Referee Gray are equally applicable to the dispute now before this Board.

AWARD: Claim for removal of deferred days assessed J. S. Grzesiak and Helper F. King sustained.

  
Leverett Edwards, Neutral Member & Chairman

  
For the Organization

  
For the Carrier

Dated 5/21/84

At Fort Worth, Texas