

**PUBLIC LAW BOARD NO. 6858**

**PARTIES TO  
THE DISPUTE:**

Brotherhood of Locomotive Engineers &  
Trainmen (BLE & T)

vs.

The Burlington Northern and  
Santa Fe Railway Company

Award No. 9/Case No. 9

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**STATEMENT OF CLAIM:**

“Order Level S, thirty (30) day Record Suspension expunged from Claimant’s personal record, including compensation for any time lost while attending formal investigation.”

**FINDINGS OF THE BOARD:**

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the parties, claim and subject matter herein, and that the parties were given due notice of the hearing which was held on October 24, 2006 in San Antonio, Texas. The Carrier and Organization are parties to a collective bargaining agreement which has been in effect at all times relevant to this dispute, covering the Carrier’s employees in the Claimant’s craft.


The Carrier and Organization are parties to a collective bargaining agreement which has been in effect at all times relevant to this dispute, covering the Carrier’s employees in the Claimant’s craft.

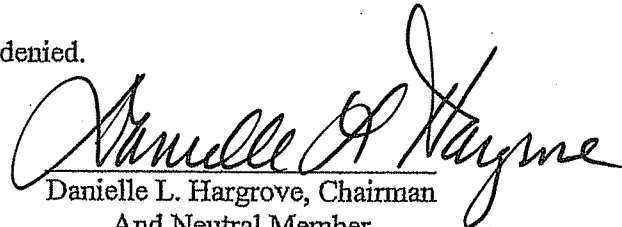
Claimant received a Level S thirty (30) day record suspension on January 17, 2003 for violating Rule 1.1 of the General Code of Operating Rules, Fourth Edition, effective April 2, 2000 and Rule S-1.1 of the Trainmen, Yardmen & Safety Supplement No. 1, effective April 1, 1998, as supplemented or amended. Specifically, Carrier found that Claimant failed to hold a proper job briefing to identify hazards in connection with work to be performed while working as conductor on Train L-SWE0021-27 resulting in personal injury to his brakeman while working at Portales, New Mexico on October 27, 2002. Claimant was also placed on probation for one year.

It is the Organization's position that the brakeman's injury was not the fault of Claimant but that of the brakeman's own doing and. The Organization maintains that the Claimant conducted multiple job briefings and appropriately communicated how the tasks were to be performed. It further points out that the brakeman chose to walk into the elevator and ride the cars despite Claimant specifically directing him to remain at the switch. The Carrier's position is that had Claimant specifically identified the hazard related to the dock in a safety briefing or advised the brakeman to do so, the incident might not have happened.

Claimant admits that he did not evaluate the dock or have any discussion with the crew in a safety briefing about the condition of the dock as a hazard. Rules cited in the investigation hearing state that it is the responsibility of each crewmember to review close clearance locations within their area of work prior to the start of the work process. Claimant did not do this. Although it was clear that the crew needed to be aware of the close clearance, (and Claimant testified that he was aware of the close clearance), the additional hazard of large wooden splints sticking out from the dock were an additional hazard no one was aware of. Unfortunately, Claimant's failure to analyze the dock hindered his ability to advise the remainder of the crew. Therefore, this Board finds that the evidence does support the Carrier's determination that the Claimant was partially responsible for the injury of his brakeman for failing to review the dock location. Accordingly, we find no reason to disturb the Carrier's decision.

**AWARD:** The claim is denied.

  
Pat Williams  
Organization Member

  
Danielle L. Hargrove, Chairman  
And Neutral Member

  
Melissa Beasley  
Carrier Member

7/26/07  
Date