

**Award 20081**

**Docket 36538**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**FIRST DIVISION**

**39 South La Salle Street, Chicago 3, Illinois**

**With Referee Jacob Seidenberg**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

**HOUSTON BELT AND TERMINAL RAILWAY COMPANY**

**STATEMENT OF CLAIM:** "Claim of Engineer Brooks Hamilton for reinstatement to the service as Locomotive Engineer on the Houston Belt & Terminal Railway with all seniority rights unimpaired and payment for all time lost, including January 24, 1958, and thereafter until returned to the service."

**FINDINGS:** The First Division of the National Railroad Adjustment Board upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

The carrier's position that this Division has no jurisdiction because of the time limit bar under Article 9(c) of the governing Agreement, based on the National Rules Agreement of August 11, 1948, caused this Division, in accordance with its resolution of July 1, 1952, to hold this docket in abeyance until the Joint Committee, established by Agreement of June 29, 1949, could dispose of that issue. Under date of July 20, 1961, this Division was advised by the Parties enclosing decision of the Joint Committee that the claim is not barred as argued by the respondent. Therefore, the Division assumed jurisdiction.

The Division finds that the notice of investigation fulfills requirements of Section (d) of Article 19. The notice was specific as to time and place of investigation, and in sufficient detail as to time, date and nature of the occurrence which formed the basis of the investigation. Further, claimant had full opportunity to have any witnesses present that he desired. Toward the close of the investigation, claimant replied in the affirmative, when asked whether he had had an opportunity to ask all questions of any witnesses desired, and in the negative, when asked whether any other witnesses were desired.

After a thorough review of this docket and in consideration of the contradictory state of the record, this Division finds that in this particular case the claimant should now be reinstated with his seniority rights unimpaired, but without payment for the time lost to date of reinstatement following this award.

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**AWARD:** Case disposed of in accordance with the above Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of FIRST DIVISION

ATTEST: J. M. MacLeod  
Executive Secretary

Dated at Chicago, Illinois this 24th day of January 1962.