

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the action of the National Railroad Passenger Corporation (Amtrak) was unjust and arbitrary in their assessment of a three (3) day deferred to Electrician Anthony Laudano.
2. That, accordingly, the National Railroad Passenger Corporation be ordered to remove the said deferred suspension from Electrician Anthony Laudano's record.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This is a claim for time lost by the Claimant Electrician for a three-day deferred suspension for violation of Rules "F" and "H" of the AMTRAK Rules in that on December 14, 1979, the Claimant allegedly operated a drop table crane in a manner that caused damage to that crane. There is no question that the crane on which Claimant was the operator bumped into another overhead crane.

The contention of the organization is that the drop table crane was in less-than-satisfactory condition; that any overhead traveling crane that is operated by employes who have pushbutton equipment on the floor level makes these cranes impossible to operate at 100 percent efficiency; and that this type of crane has a tendency to float after the stop button is put into operation. Therefore, to the organization, Claimant should not have been disciplined due to the fact that the crane may have malfunctioned.

It is the position of the Carrier that the Organization could offer no proof that the crane involved was in need of repair. Furthermore, the Carrier established that no report of faulty equipment was received prior to this incident and a visual inspection conducted in conjunction with the second level appeal of this case supports the conclusion that the crane was not in need of repairs. In this case, then, the discipline should be upheld. No evidence

whatsoever was presented that the crane was defective or that the damage to the crane was caused by anything other than the negligence of Claimant.

After careful review of this record, the Board finds that the on-site inspection of the crane by the Carrier revealed that the crane had, in fact, exhibited a tendency to vary its speed and, when the operating button was released, it continued to move at a descending rate of speed until it came to a complete stop. Therefore, there was evidence that the crane may have malfunctioned and that the Claimant was not, in fact, at fault. Since the Carrier disregarded this evidence in reaching its findings, the Board finds that this claim must be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of January, 1983.