

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen and Oilers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Hostler Helper R. W. Boulton was unjustly suspended for ten (10) days from service of the Carrier following trial held on date of November 20, 1979.
2. That, accordingly, the Carrier be ordered to make the aforementioned R. W. Boulton whole by compensating him for ten (10) days' lost wages.

Findings:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

The Claimant, R. W. Boulton, Jr., a laborer with approximately four years of service, was suspended for ten days in connection with his role in the derailment of engine 6269 on November 3, 1979. The facts are undisputed. The Claimant was working with a hostler on that date. They were in the process of turning three units. The Claimant had already given a back up signal to the hostler and, when the unit came abreast of the Claimant, he boarded and stood in the cab of engine 6269. As the two stood in the cab discussing their next move, the three units drifted backwards and derailed.

The Organization contends the discipline imposed is improper because the charge lacks sufficient specificity. It additionally claims the derailment would not have happened if the tracks were blocked properly.

The Board has reviewed the transcript and finds no foundation for the Organization's position. The Carrier's charge sufficiently alerted both the Claimant and the Organization to the nature and time of the incident, thereby affording both with ample opportunity to mount and prepare proper defense. The Board notes the Claimant and hostler acknowledged responsibility for the move involving the three units. The evidence provides no basis to challenge the Carrier's determination this Claimant was partially responsible for that derailment. We do, however, believe the facts and circumstances do not support

the issuance of a ten day suspension. Therefore, we hereby reduce the degree of discipline to a five day suspension. Claimant is to be made whole for the difference.

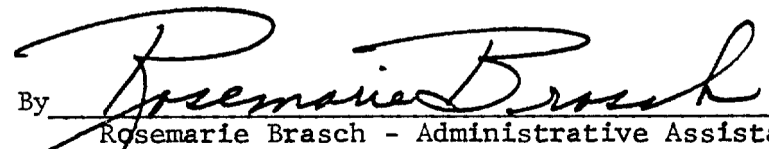
A W A R D

Claim sustained in accordance with the Findings.

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 4th day of May, 1983.