

The Second Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(CSX Transportation, Inc. (Former C&O)

STATEMENT OF CLAIM:

1. That the Chesapeake and Ohio Railway unjustly and arbitrarily disciplined Lineman R. E. Greene by assessing discipline consisting of ten (10) days overhead suspension.

2. That accordingly, the Chesapeake and Ohio Railway Company be ordered to expunge Lineman R. E. Greene's service record of all mention of the unjust discipline.

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 employees 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 were given due notice of hearing thereon.

On May 15, 1986, the Claimant, while driving a Carrier truck, was involved in an accident with a private passenger car. Claimant was turning left when the car (moving in the same direction as Claimant) attempted to pass; the car struck the truck on the truck's left side. An Ohio State Highway Patrol Officer charged the Claimant with "improper turn" and the driver of the car with "improper passing." Subsequent to an investigative hearing, the Claimant was disciplined with a ten (10) days overhead suspension for six (6) months.

The Organization has raised a procedural issue concerning the charge. The charge must be sufficiently precise so that the Claimant and the Organization can prepare a defense. Even though the charge in this matter does not refer to a specific rule, the charge is quite specific about the event under investigation. The charge meets the requirement of Rule 27.

In determining the Claimant's share of responsibility for the accident, the report of the State Highway Patrol Officer is persuasive. Based upon his investigation at the accident scene and interviews with both drivers, the Officer concluded that the Claimant turned improperly. Given the commonly recognized expertise of these officers, it is fair and appropriate to accept the Officer's findings and conclusions. Accordingly, there is substantial evidence that the Claimant shared fault for the accident.

The Carrier has fulfilled the responsibility of proving fault in this matter. This Board cannot find any basis in the record for setting aside the discipline. The action by the Carrier was not arbitrary, capricious or unjust.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of October 1988.