

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12493
Docket No. 12410
93-2-91-2-208

The Second Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

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PARTIES TO DISPUTE: (
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM:

"1. That the Grand Trunk Western Railroad Company unjustly disciplined, as a result of investigation conducted on June 27, 1990, Carmen R. C. Hawker and A. J. Kuehn when their service records were assessed with forty-five (45) and thirty-five (35) demerit marks.

2. That accordingly, Grand Trunk Western Railroad Company be ordered to clear any and all discipline notations from R. C. Hawker's and A. J. Kuehn's personal records resulting from the alleged charges."

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.

Claimants were charged with violating General Rule 7 and Safety Rules 4008 and 4511(b) for their conduct on June 12, 1990, while moving two cars into the Steel Shop at Port Huron, Michigan. Subsequent to a hearing held on June 27, 1990, Claimant Hawker was found guilty of all three charges and assessed the penalty of 45 demerits, and Claimant Kuehn was found guilty of charges 1 and 3 and assessed the penalty of 35 demerits.

Claimants worked as a team in the movement of cars into and out of the Steel Shop. Hawker operated a trackmobile, with Kuehn acting as his groundsman, signaling him when to move or stop by the use of hand signals. The Claimants relied on hand signals because of the noise level in the area.

On the date in question, after being instructed to prepare two cars for movement into the shop, Claimants unsuccessfully attempted to couple a CNA car with a GTW car. Although Hawker lost sight of Kuehn for a few moments, he kept shoving, causing the uncoupled GTW car to jump a wooden preventer wedge and roll into the shop. Kuehn ran after the car and applied the handbrake, stopping it five feet short of another car which was jacked up and being worked on by other employees.

Hawker testified that he continued shoving even though he had lost sight of Kuehn because he had not received a stop signal, while Kuehn testified that he thought Hawker had seen his signal to stop.

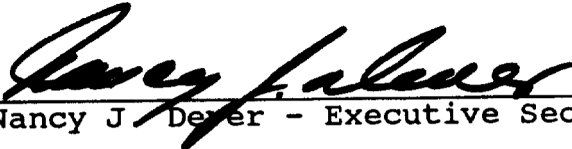
After carefully reviewing the record, the Board finds that Claimants received a fair and impartial hearing and that there is substantial evidence that they are guilty as charged. It appears that Claimants lost sight of each other at a critical time and, given all the circumstances, failed to communicate with each other to the degree required in executing a potentially dangerous assignment.

The Carrier's conclusion that they did not take proper precautions is not unreasonable on the basis of the evidence before us. Accordingly, we will not disturb the penalty assessed by the Carrier.

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 6th day of January 1993.