

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13486
Docket No. 13342
00-2-98-2-28**

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

PARTIES TO DISPUTE: (Sheet Metal Workers' International Association
(CSX Transportation, Inc. (former Baltimore and Ohio
(Railroad Company)

STATEMENT OF CLAIM:

- “1. That under the current agreement, Sheet Metal Worker D. R. Mahan was unjustly issued discipline of a letter of reprimand when he was found guilty of “failure to secure Blue Flag and Derail protection while working on a Hi-Lift on the Service Track at Cincinnati on March 27, 1997 resulting in a collision with a moving locomotive.**
- 2. That accordingly, CSX Transportation, Inc. be required to expunge Mr. Mahan’s record of any and all mention of this matter.”**

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 were given due notice of hearing thereon.

The Claimant was advised to attend an Investigation in order to determine facts and place responsibility, if any, in connection with failure to secure blue flag and derail protection while utilizing a hi-lift machine on a service track at the Carrier's Cincinnati, Ohio facility. This resulted in a collision with a locomotive. A Machinist, who was one of the Claimant's fellow workers, was also charged with the same alleged offense. After an Investigation was held, the Claimant was advised that he had been found guilty as charged and he was issued a written reprimand that became part of his record.

After the discipline was appealed on the property in the proper manner by the Organization up to and including the highest Carrier Officer designated to hear such, this claim was docketed before the Board for final adjudication.

The Claimant was using a hi-lift machine at the Cincinnati Service Track on March 27, 1997. After some engines left Track 3 in the Service Center, the Claimant and fellow worker Gossett, who was a Machinist, drove the hi-lift across Track 3 in order to repair overhead sanding equipment. No blue flag or derail protection was put on Track 3 while these two employees were doing the repair work cited here. When a Hostler brought some engines back on Track 3, the hi-lift was struck and it sustained in excess of \$4,000 damage.

A review of the record shows that there were manually operated derails on the south end of Track 3 and 4 at the Service Center, but testimony from a number of witnesses at the Investigation was that local practice suggested that they were seldom used. Irrespective of local practices, reasonable minds would conclude that the collision involving the hi-lift and the engines on Track 3 would not have happened had the derail been used. The CSX Safe Way manual states the following, in this regard:

“When workmen are on, under, or between rolling equipment on any track, other than a main track, each derail must be locked in a derailing position with an effective locking device and a blue signal must be displayed at each derail.” (Emphasis Added)

This language from the manual is clear and unambiguous. Irrespective of local practice the Claimant did not follow instructions clearly outlined in the manual. In an industry as safety conscious as the railroad industry such relapses are not permissible. Both evidence of record in this case, as well as abundant arbitral precedent dealing with

blue flag protection (Second Division Awards 11996, 12353, 12743 inter alia.) permit no other conclusion but that the instant claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 11th day of April, 2000.