

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13757

Docket No. 13548

03-2-00-2-23

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

(International Association of Machinists and
(Aerospace Workers

PARTIES TO DISPUTE: (

(Springfield Terminal Railroad Company

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. Springfield Terminal Railway Company violated Rule 15 of the controlling Agreement, effective June 1, 1995, as amended, when by letter dated May 25, 1999 the Carrier arbitrarily, capriciously and unjustly suspended Machinist Paul Sicard for ninety (90) calendar days after an investigation held on May 4, 1999.
2. Accordingly, the decision should be reversed, Machinist Sicard exonerated of the charge(s), his record and personnel files cleared of any reference thereto. And he be made whole for any and all losses suffered as a result of Carrier's arbitrary, capricious and unjust actions, including, but not limited to time spent at formal Investigation/Hearing of May 4, 1999.”

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.

As a result of charges dated April 8, 1999, Investigation eventually held on May 4, 1999, and by letter dated May 25, 1999, the Claimant, a Machinist at Waterville, was assessed a 90 day suspension for negligence in the performance of duties due to his involvement in the derailment of a locomotive on April 7, 1999.

The record shows that on April 7, 1999, the Claimant was assigned to the Engine House at Waterville inspecting and assisting in the movement of locomotives. While working with Locomotive 376 as the groundman, the Claimant removed a derail and signaled the engine operator to shove the locomotive onto the turntable with another unit. Locomotive 376 then derailed on the turntable causing damage to the turntable planking and the locomotive. Inspection of the incident showed that the turntable was improperly aligned with the track by approximately 29 inches. Tr. 4-8. The Claimant testified that "... I thought I lined the table, I didn't say I did line it, I said I thought I lined the table..." Tr. 80.

Substantial evidence supports the Carrier's conclusion that the Claimant was negligent in the performance of his duties. The Claimant's function as groundman was to make certain that the turntable and track were properly aligned. Here, the record shows that there was an approximate 29 inch misalignment which caused Locomotive 376 to derail as it was shoved onto the turntable. That amount of misalignment cannot reasonably be attributed to the turntable jumping as a result of contact with the locomotive.

Under the circumstances, we do not find that a 90 day suspension is arbitrary. Negligence causing a derailment is serious misconduct. Further, the Claimant's prior disciplinary includes a number of lengthy suspensions.

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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 1st day of October 2003.