

**Award No. 3313
Docket No. 3215
2-NYC&StL-EW-'59**

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 57, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)**

**THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYES:

1. That E. E. Landrus was unjustly dealt with and the provisions of the current agreement violated when he was suspended for five working days, beginning October 16, 1957.

2. That accordingly the carrier be ordered to remove this unjust suspension from Mr. Landrus' service record and compensate him for all time lost.

EMPLOYES' STATEMENT OF FACTS: Electrical Worker E. E. Landrus, hereinafter referred to as the claimant, is employed by the New York, Chicago & St. Louis Railroad Company, hereinafter referred to as the carrier, in its Communication Department. He has served the carrier as groundman, gang lineman, assistant foreman, foreman and section lineman for approximately ten years.

On August 19, 1957 a collision occurred between a track motor car operated by the claimant and one operated by Section Foreman Leonard Worrell.

Under date of September 3, 1957 a message was sent to the claimant, by company wire, directing him to be present at joint hearing to be held at Ramsey, Illinois, September 6, 1957, account of motor car collision on August 29, 1957. A copy of this message is submitted as Exhibit A.

Joint hearings, for the five employees involved in the collision of the motor cars on August 29, 1957, were held at Ramsey, Illinois, as scheduled. A transcript of these hearings is submitted as Exhibit B.

tunity of obtaining witnesses and representation. The claimant knew precisely the purpose of the hearing and that it involved determining his personal responsibility, if any, for the accident. Every witness that could have any connection with the accident was called and heard. Representative McDonnell was given the opportunity of questioning and examining all witnesses.

The hearing and investigation was fair and impartial and was conducted in the same manner that all other hearings and investigations are held on the property. Discipline Rule 18 was fully complied with.

There was sound basis for the application of discipline and the amount assessed in this case was lenient, considering the offense. The request that such discipline be removed should be denied.

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 were given due notice of hearing thereon.

On August 29, 1957, a head-on collision occurred between a track motor car operated by the claimant lineman and another such car operated by a section foreman. This occurrence took place in single track territory. After a hearing was held on the property, both employes were assessed an actual suspension of five days. Carrier's stated reason for the discipline imposed upon claimant Landrus—the only employe involved in the present case—was "failure to have your motor car under control, this failure being a contributing cause of this accident.

We find that carrier complied with the procedural requirements of Rule 18, the petitioner's contention to the contrary. In the light of the entire record in this docket, we also conclude that no basis is afforded for setting aside the disciplinary action taken.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1959.