

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: ( System Federation No. 7, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
( Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current working agreement, Mr. L. A. Paz, Bridge Tender, was unjustly suspended from the service of the Burlington Northern Inc. from February 28, 1975 to March 14, 1975 inclusive.
2. That, accordingly, the Burlington Northern Inc. be ordered to make whole Mr. Paz and that he be compensated for all wage loss and granted all rights, benefits and privileges to which he is entitled under all applicable agreements, rules, or laws.

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.

Claimant is a Bridge Tender who received an entry of censure and a 15-day suspension for his actions in connection with a train derailment. Specifically, he was charged with violation of Rule 606 of the Consolidated Code of Operating Rules "by failing to examine the route to be used and knowing it was safe for movement before giving a proceed signal".

Rule 606 reads as follows:

"When a train or engine has stopped for a signal displaying a Stop indication at a manually controlled interlocking and no conflicting movement is evident, a member of the crew must immediately communicate with the control operator. If unable to clear the signal,

"authority to proceed will be given in the following manner: (a) When a proceed signal given with a yellow flag or a yellow light is received. Before giving such signal, employee authorizing the movement must examine the route to be used and know it is safe for the movement."  
/Emphasis added/

The claimant did not get a clear signal on his indicator control board prior to the arrival of the train at his interlocking system. It can be assumed, therefore, that the Carrier could expect a careful investigation of the "route to be used" prior to the giving of a proceed signal.

The investigative hearing conducted into the claimant's actions was free of procedural defect. Testimony elicited from the claimant convinced the Carrier that the claimant had not thoroughly inspected the frog point, the mispositioning of which was the apparent cause of the subsequent train derailment.

The fact that the equipment involved was old and had been found faulty in the past is hardly a defense against careful track route examination. Nothing in the Carrier's actions is arbitrary, capricious or unreasonable, and this Board has no purpose or intent in substituting its judgment in regard to the disciplinary action imposed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of June, 1977.