

hours after the Claimant signed that he had inspected it, the Claimant would have known how to correct the problem. The key question then is did he, in fact, inspect it and found it satisfactory and later someone tampered with it between 8:00 p.m. one day and 8:00 a.m. the next day, or did he fail to inspect it and thus did not notice the improper way it was installed? Both the Carrier and the Organization agree that there is no way of knowing for sure which happened although each differs as to what it believes happened. We have, however, one dangerous fact - namely, that a speed recorder tape could not be checked after an accident because of the shape it was in and the last person to inspect it was the Claimant.

There is, therefore, substantial evidence, if not conclusive evidence, to support the extent of discipline given in this case. The Board, as shown in many previous cases, is not authorized to disturb a Carrier's discipline unless it is unjust, unreasonable or arbitrary. This is not true in this case. Since, however, the Carrier recognizes the possibility that someone may have tampered with the speed recorder tape, this fact ought to be made part of the Claimant's record and this should be done by attaching this ruling to the letter of reprimand.

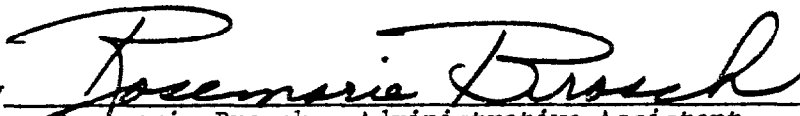
A W A R D

Claim denied except as noted in the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By



Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 9th day of June, 1982.