

The Second Division consisted of the regular members and in addition Referee Hyman Cohen, when award was rendered.

Parties to Dispute: (International Association of Machinists and Aerospace
(Workers, AFL-CIO
(Soo Line Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement and the Soo Line Railroad Company schedule of rules, the Carrier unjustly suspended Machinist Eugene T. Eldredge for a period of five working days following formal investigation, effective November 10, 1980.

2. That accordingly Soo Line Railroad Company compensate Machinist Eldredge for all wages lost as a result of said suspension and restore to him unimpaired any other rights or privileges of employment lost as a result of said suspension.

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 employes 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.

On October 23, 1980, the Company sent a notice of investigation to the Claimant Machinist, E. T. Eldredge and Pipefitter R. Curtis, advising them that the purpose of the investigation was "to determine facts and place responsibility for putting locomotive D-785 into the transfer table pit at Shoreham at 6:00 a.m., on October 23, 1980". As a result of the investigation which was held on October 8, 1980 the Claimant and Curtis were suspended from service for five (5) days due to their "lack of complete control" and their "failure to make sure that the trackmobile and the locomotive unit were securely coupled to prevent a runaway.

On October 23, 1980 the Claimant and Pipefitter Curtis were instructed to move locomotive D 785 from the roundhouse transfer table to the diesel shop. The Claimant operated the trackmobile while Curtis coupled the trackmobile to the locomotive and applied a safety chain which was welded to the trackmobile, to the locomotive. The locomotive separated from the trackmobile and the front truck of the locomotive was damaged when it went into the transfer table pit.

Since it was the failure to secure the coupler and the safety chain to the locomotive, which gave rise to the Carrier's discipline of the Claimant, the Organization contends that it was Pipefitter Curtis, rather than the Claimant who performed all of the ground work including the coupling function and connecting the safety chain to the locomotive. Moreover, the Organization contends that the Carrier had been aware of the improper operation of the coupling mechanism in the past but had failed to remedy the defect. The Organization also claims that the safety chain welded to the trackmobile was not long enough to be wrapped around the coupling. Consistent with its design, the safety chain was hooked into a pocket on the side of the coupler.

The Carrier contends that as the operator of the trackmobile, it was the Claimant's responsibility to make sure that the locomotive and trackmobile were securely coupled and that the safety chain was properly secured. Moreover, the Carrier states that after the incident, an inspection by the foreman of the Motor Car Shop disclosed that the coupler was open and found to be in proper working order.

It is undisputed that the failure to secure the coupler and the safety chain to the locomotive caused the locomotive to be separated from the trackmobile and led to the damage to the front truck of the locomotive. The Board has concluded that there is nothing in the evidentiary record to indicate that the Claimant participated in securing the coupler and the safety chain to the locomotive. The Claimant performed no activity with regard to the episode in question other than to operate the trackmobile on October 23, 1983. Under the guise of "lack of complete control" of the locomotive, the Claimant cannot be held responsible for the separation of the locomotive from the trackmobile. It was Pipefitter Curtis who performed the operation of coupling the locomotive to the trackmobile. Indeed, there is nothing in the evidentiary record to conclude that the Claimant, a machinist is responsible for checking on the work performed by another employee, or is generally responsible for the work of another employee.

Pipefitter Curtis' testimony concerning the safety chain is illuminating. He said that he applied the chain "the best way that I could to get it hooked to the unit. He then went on to say that "the chain on the trackmobile is very short in length and about the only way I could get it to stay on the unit, the 785, was to hook it into a pocket on the side of the knuckle on the 785". Furthermore, he did not wrap the chain around the coupler because "the chain was not long enough." The point to be emphasized is that the Claimant had nothing at all to do with securing the coupler and safety chain to the locomotive. In light of the activities performed by the Claimant and Pipefitter Curtis on October 23, 1980, it was the responsibility of Pipefitter Curtis rather than the Claimant, to make sure that the coupling and safety chain were secured to the locomotive.

Turning to a related consideration, Pipefitter Curtis first noticed that the locomotive was not coupled to the trackmobile "after the trackmobile started its move**went through the roundhouse" and "was approximately 100 feet from the transfer table pit." thus, the inference to be drawn is that the coupler and safety chain did not separate when the trackmobile moved a distance. Thus, even assuming that before the Claimant operated the trackmobile, he checked to determine whether the coupler and safety chain were secure. The Board has

inferred that such action by the Claimant would not have prevented the accident in question, since the move of the locomotive was well underway before the vehicles separated.

Furthermore, the Board cannot conclude that the Claimant operated the trackmobile at an excessive speed. The record indicates that Pipefitter Curtis began running "along side the locomotive" after the vehicles separated. There is nothing in the evidentiary record to warrant the conclusion that before the separation of the locomotive, the Grievant operated the trackmobile at an excessive speed.

That Pipefitter Curtis did not appeal the five (5) day suspension is of no weight with regard to the instant submission. In fact, a reasonable inference to be drawn from Pipefitter Curtis' failure to appeal the Carrier's disciplinary suspension is that he accepts responsibility for the cause of the separation of the locomotive from the trackmobile and the damage which was then caused to the front truck of the locomotive.

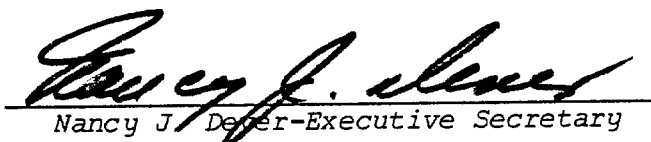
After carefully examining the record, the Board cannot conclude that there is substantial evidence to warrant a finding that the Claimant was responsible for "putting the locomotive into the transfer table pit" on October 23, 1980. Accordingly, the Claimant is to be compensated for the wages he lost as a result of the five (5) day suspension and he is to be restored unimpaired to any other rights or privileges of employment lost as a result of said suspension.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever-Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1984