

The Second Division consisted of the regular members and in addition Referee Thomas F. Carey when award was rendered.

(International Association of Machinists and Aerospace
(Workers
PARTIES TO DISPUTE: (
(Indiana Harbor Belt Railroad Company

STATEMENT OF CLAIM:

1. That the Indiana Harbor Belt Railroad violated the controlling Agreement dated January 1, 1947, as subsequently revised, particularly Rule 36, but not limited thereto, when they assessed Machinist J. Clemens 20 days actual suspension account he allegedly violated safety rules, thereby allegedly causing a derailment and delay in train movement.

RELIEF REQUESTED

1. That the Indiana Harbor Belt Railroad compensate Machinist Clemens for 20 days pay at the pro rata rate, and

2. Make claimant whole for any and all losses incurred due to his unjust suspension from the service and remove all reference to same from his service record.

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 employees 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.

The Claimant was employed as a Machinist at Blue Island, Illinois, with a service date of January 5, 1976. On March 4, 1985, at 11:10 A.M., the Claimant and a Laborer were required to move a consist of Conrail power, from the North Ready Track to the South Ready Track. The Claimant was acting as the engineer and operating the lead locomotive (6502) which was coupled back-to-back with Locomotive 6509, and the Laborer was acting as the groundman or switchman. During the course of movement, the Rip Track Lead switch was run through, and on the reverse move through the switch the engine derailed causing damage to the track and delays for other trains.

As a result of this incident, the Claimant and the Laborer were charged with:

"Violation of Safety Rules 4224 (a & c), 4520 (m), Hostler Instructions, and movement of locomotives without personnel on the point in the direction of movement, causing the derailment of locomotives CR 6502 in consist with CR 6509 at 11:10 A.M. on March 4, 1985, which resulted in \$2,000 damage to tracks, cost of \$3,200 rerailling expenses, and delay to symbol and belt trains PXPI-4, PXSE-4 and BA-1130."

A hearing was held on the charge on March 13, 1985, and the Claimant was found guilty. He was assessed a 20 day actual suspension.

According to the Carrier, the Claimant took the signal from the Laborer and moved the locomotive consist eastward as he looked in a westerly direction at the Laborer. When the Laborer signalled the Claimant to stop, the front truck of the lead unit had already run through the Rip Track Lead switch. To compound the error, instead of completing the move through the switch, the Claimant and the Laborer made a reverse move through the switch in an attempt to back onto the Ready Track, triggering the derailment and causing extensive delays and track damage. The Carrier maintains that, as a member of the crew, the Claimant had a larger responsibility in the moving of the locomotive, and that if either the Claimant or the Laborer had followed the Rules, which are designed to be fail safe, there would have been no derailment, and no subsequent track damages and train delays. However, both failed to comply, which set in motion an accident the Carrier alleges need not have occurred.

The Claimant testified that he had been instructed on the movement of locomotives, and had signed for copies of all pertinent manuals and bulletins regarding safety procedures. However, when pressed on the events leading up to the derailment--particularly the issues of a man being on the point in the direction of movement, or on viewing a switch before moving a train over it--his answers to specific questions were vague and contradictory. He professed to know little about moving locomotives, although he had previously testified that he had been trained to do so, and he was unable to offer any reason for the derailment.

It must be underscored that this Board upholds the proposition that each employee must accept responsibility for his own actions, and cannot attempt to shift that responsibility to anyone else. In Second Division Award 6538 the Board held:

"...each employee is responsible for the performance of his duties, and his failures cannot be excused because others may also have been at fault (Award 1716). Over the years, in all divisions, we have ruled consistently that employee responsibility cannot be avoided by shifting the blame to supervisors or other employees..."

Further, it must be noted that the Claimant's violations of the Hostler's Instructions and the applicable safety rules are what is at issue in this case, not the degree nor the monetary amount of any damages or delays resulting from those violations.

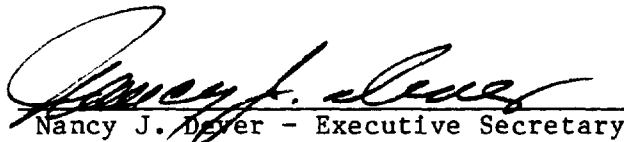
The Claimant was clearly responsible for his own actions in this case, and, as a member of a crew, must shoulder more responsibility than a Laborer in such a situation. The Board, therefore, finds no basis for reducing the Claimant's penalty.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of March 1989.