

The Second Division consisted of the regular members and in addition Referee Hugh Duffy when award was rendered.

(International Association of Machinists and
(Aerospace Workers
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (Former Seaboard Coast
(Line Railroad Company)

STATEMENT OF CLAIM:

1. That CSX Transportation, Inc. violated Rule 30, but not limited thereto, of the controlling Agreement when it unjustly suspended Machinist J. J. Overall for thirty days following an investigation held on April 16, 1990.
2. That accordingly, CSX Transportation be ordered to compensate Machinist Overall for all pay and benefits lost (made whole) as a result thereof and remove all reference to the charges from his 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 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.

Claimant was charged with violating Rules 250 and 253 of the Safety Manual, after an unexpected movement of a locomotive he was conducting a test on caused an injury to another employee. After an Investigation, Claimant was found guilty as charged and assessed the penalty of a 30-day suspension.

It should be noted at the outset that the Organization raised matters which were not considered on the property; not having been raised in a timely manner, they have not been considered in the Board's deliberations.

In this case an Electrician and a Foreman were inspecting the flange lubricator on a locomotive, requiring that they "fool" the engine by setting the generator field in the "ON" position, the reverser in the "FORWARD" position, and the isolation switch in the "RUN" position; this enabled them to simulate running conditions without actually starting the engine.

While this test was proceeding, Claimant arrived to perform a "break in two" protection test, which required starting the engine. This meant that the generator field had to be in the "OFF" position, the reverser in "NEUTRAL", and the isolation switch off the line. Claimant proceeded with the test but failed to check the position of the reverser, which had been set in "FORWARD" by the two other employees. This eventually resulted in a forward movement of the locomotive, causing a minor injury to the Electrician.

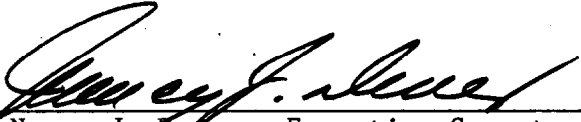
After a close review of the transcript, it is clear that Claimant is culpable for failing to check the position of the reverser, and he cannot point to the shortcoming of others to justify his failure to devote his full attention to the task at hand. However, there do appear to be other mitigating factors, and given all the circumstances, suspension for 30 days appears to be an excessive penalty in this case. We therefore conclude that a 10-day suspension would have been more commensurate with what occurred in this matter. Accordingly, Claimant's suspension would cover the period from May 4, 1990 through May 13, 1990.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of October 1991.