

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19740
Docket Number MW-19623

John H. Dorsey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Inc. (Formerly Spokane, Portland
& Seattle Railway Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The ten (10) day suspension of Carpenter R. G. Hansen was without just and sufficient cause and on the basis of unproven charges (System File 337F/MW-20(b) - 1/25/71 B).

(2) The personal record of Carpenter R. G. Hansen be cleared of the charge and he shall be compensated for wage loss suffered, all in accordance with Article V, Rule 24(a).

OPINION OF BOARD: Under date of October 26, 1970, Claimant, inter alia, was served with the following notification signed by Carrier's Superintendent.

"You are hereby notified in accordance with the provisions of your respective schedules to be present in the Astoria Depot, Astoria, Oregon, 10:00 a.m., Monday, November 2, 1970, for formal investigation to determine facts and place responsibility in connection with B&B Crew #16, Foreman T. J. Smith, having motor car, hand crane and push car in their charge struck by Train 1313-23, Extra NP 810 West, Conductor Booth, Engineer Vaughn at M.P. A-61.7 about 9:10 a.m., October 23, 1970."

Investigation was held at the appointed time and place. Thereafter, Carrier found Claimant guilty of violating General Notice Rules 1 and 2 and Rule 2331 of the Safety Rules and Admonitions for the General Guidance and Protection of Employees when, on October 23, 1970, a motor car, hand crane and push car he was piloting was struck by Train 1313, Extra NP West. The discipline assessed was 10 days suspension.

From our review of the record we find: (1) Claimant was afforded due process; (2) Carrier's finding of Claimant's guilt is supported by substantial evidence of probative value; and (3) the discipline assessed -- 10 days suspension -- was not unreasonable. We, therefore, are compelled to deny the Claim.

Award Number 19740
Docket Number MW-19623

Page 2

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

Carrier did not violate the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E.A. Kilken
Executive Secretary

Dated at Chicago, Illinois, this 11th day of May 1973.