

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25291
Docket Number TD-25157

Robert W. McAllister. Referee

(American Train Dispatchers Association

PARTIES TO DISPUTE: {

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

Appeal from the discipline assessed Train Dispatchers M.H. Burke (10 days suspension) and A. L. Turk (disqualified as Train Dispatcher) as a result of a hearing held on **December 8**, 1981.

OPINION OF BOARD: Train Dispatchers M. H. Burke and A. L. Turk were called to a hearing to determine their responsibility, if any, in permitting Train TRIN-2 to proceed onto #2 track at CP-Preston on Wednesday, December 2, 1981, at 12:58 P.M. while it was occupied by HRC-1147. Dispatcher Burke had, at the time of hearing, twenty-six and one-half years of service, and Dispatcher Turk had twenty-four and one-half years of service. As a result of the hearing, Turk was disqualified as a Train Dispatcher, and Burke was given a ten-day suspension.

The Organization contends the Carrier failed to satisfy its burden of proof that either Claimant was responsible for Train TRIN-2 being permitted to proceed onto Track #2 occupied by Hi-rail car #1147, which had a Form M authorization for exclusive occupancy at the time. On December 2, 1981, Claimant Burke was the regularly assigned Train Dispatcher working Desk B. He was, also, training Claimant Turk, who was attempting to qualify on Desk B. Prior to the incident, Train PIAS-1 made a reverse move from Track #2 to Track #1 at CP-Preston. At approximately 11:06 A.M., Claimant Burke instructed Claimant Turk to line up the movement of Train TRIN-2 from Ringo to Avon on Track #1. At about 11:50 A.M., Burke instructed Turk to issue a Form M to HRC-1147 to occupy Track #2 between Preston and Perth from 11:50 A.M. to 1:20 P.M. At about 12:28 P.M., Train TRIN-2 crossed over to Track #2 at CP-Preston. At 12:40 P.M., Train TRIN-2 made an emergency stop at Mile Post 65 and avoided a head-on collision with HRC-1147.

Despite asserting innocence of the charges, the record shows that Claimant Turk lined up the movement **for** Train TRIN-2, but failed to observe the crossover at CP-Preston was still in the reverse position. Claimant Burke simply did not exercise his responsibility to monitor Claimant Turk who is a qualified Train Dispatcher. Our review of the record leads to the conclusion that the evidence supports the Carrier's conclusion the Claimants were responsible for the movements of Trains TRIN-2 and HRC-1147, which could have resulted in a disastrous head-on collision. Discipline was, therefore, in this Board's view, appropriate. The ten-day suspension of Burke will not be disturbed. **However**, considering the long service of Turk and that his disqualification as Train Dispatcher has been in effect three years, this Board is inclined to hold that permanent disqualification is too severe a penalty. After three years, Claimant Turk has had ample opportunity to reflect upon the absolute necessity of exercising care and diligence in the control of train movements. In conclusion, the Board finds the discipline of Claimant Turk has served its purpose, and we restore him to his former position as Train Dispatcher without any monetary award.

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

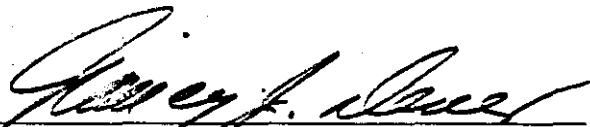
'That the discipline for Claimant Turk is excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest::


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1985.

