

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26561  
Docket Number X-26385

Robert W. McAllister, Referee

(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Union Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of  
Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of D. L. Richard for all time and benefits lost  
account of being assessed a five day suspension account of his involvement in  
a company vehicle accident on March 14, 1984. Carrier file 013-220-R."

OPINION OF BOARD: Claimant was issued a five (5) day suspension for his  
involvement in a vehicular accident on March 14, 1984. The  
Claimant, a Carrier Maintainer, was working with another Maintainer, N. P.  
**Mawford**. Mawford's vehicle got stuck in the mud twice. The first time, the  
Claimant pulled him free with his vehicle. The second time, a **B&B** boom truck  
driver offered to pull **Mawford** out with his vehicle's winch. In so doing, the  
Claimant sat in the boom truck's cab using the brakes to prevent slippage.  
When Mawford's vehicle was pulled free, the Claimant was asked to move the  
boom truck forward. He attempted to do so, but stalled. The boom truck  
rolled backwards and struck Mawford's truck causing approximately \$600 in  
damages. The Claimant did not deny his involvement as described above. As  
the operator of the boom truck, albeit voluntary, the Claimant must be held  
responsible for the damage to the truck.

In assessing the discipline, we believe the Carrier overlooked the  
totality of the Claimant's conduct which was well intentioned. The stalling  
of the boom truck was not envisioned. If it had been, the Claimant might have  
blocked the wheels as suggested by the Carrier. Under the circumstances pre-  
sented by this record, we find the Carrier's issuance of a five (5) day  
suspension to be excessive. Accordingly, the Claimant's suspension is reduced  
to a letter of warning, and he is to be made **whole** for the wages lost.

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;

Award Number 26561  
Docket Number X-26385

Page 2

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

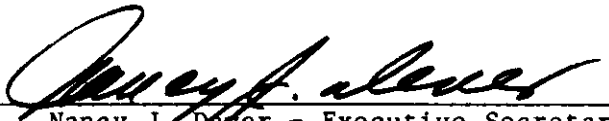
That the discipline was excessive.

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 30th day of September 1987.