

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Delaware and Hudson Railway Company)

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

(1) The fifteen (15) days of deferred suspension imposed upon Trackman J. G. Cooper for alleged 'violation of GT Safety Rules GR-A and S-31' on October 22, 1985 was without just and sufficient cause, on the basis of unprove" charges and in violation of the Agreement (System File **BMWE-11-86**).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for any wage loss suffered."

FINDINGS:

The Third 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.

By letter dated October 23, 1985, Claimant, a Trackman with approximately 6 years service, was directed to report for a Hearing in connection with the following charge:

"Direct violation of GTI Safety Rules GR-A and S-31 resulting in personal injury to yourself on October 22, 1985."

The involved Safety Rules read as follows:

Safety Rule GR-A

"Employees must be conversant with and obey all rules and special instructions."

Safety Rule S-31

"Before and **while** working below, above or near one another, employees in each position must notify the other of their whereabouts and make adequate provisions for each other's safety. Standing on anything which makes one's position insecure is prohibited."

Following the Hearing, which was ultimately held on November 21, 1985, Claimant was assessed a 15 day deferred **suspension**. The record **contains** substantial evidence in support of the Carrier's determination that Claimant failed to position himself a safe distance away from a fellow **Trackman** while working.


Over the years, all Divisions of this Board have consistently ruled that employee responsibility cannot be avoided by shifting the blame to supervisors or other employees. Each one of **us** must accept and answer for **our own** actions and job performance. (See Second Division Awards 9151 and 6538.)

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.