

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31371
Docket No. MW-32023
96-3-94-3-390

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Duluth, Missabe and Iron Range Railway Company

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

- (1) The discipline (letters of discipline) imposed upon B&B Mechanics M. G. LeBlanc and L. S. Forstrom for allegedly being, '*** careless while cleaning a belt scraper on August 2, 1993 which caused a lost-time injury, was without just and sufficient cause and on the basis of unproven charges (Claim Nos. 17-93 and 19-93).
- (2) As a consequence of the violations referred to in Part (1) above, the letter of reprimand shall be removed from the records of B&B Mechanics M. G. LeBlanc and L. S. Forstrom and their records shall be cleared of the charges leveled against them."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimants were cleaning a belt scraper when Claimant Forstrom was injured. Carrier charged both to attend an Investigation, following which both were issued discipline. The Board has reviewed the transcript of the Investigation and concludes that Carrier did not develop an adequate basis for assessing discipline of any type. The substance of Carrier's case seems to be that Claimant Forstrom was injured, therefore, Claimants were not working safely and discipline is appropriate. Before discipline is assessed on the basis that unsafe work practices were occurring, more is required. The discipline will be removed.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of February 1996.