

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19607
Docket Number MW-19545

Gene T. Ritter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Illinois Central Railroad Company

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

(1) The thirty (30) day suspension of Machine Operator R. E. Wiley was without just and sufficient cause and wholly unwarranted (System File T-71-T-70/Case 753).

(2) The personal record of Machine Operator R. E. Wiley be cleared of the suspension and that he be compensated for all wage loss suffered, all in accordance with Rule 25(i).

OPINION OF BOARD: On August 7, 1970, Carrier instructed Claimant to report to Milan, Tennessee, and to move Highway Truck Crane HTC-1 to McConnell, Tennessee, where he was to load a number of track machines. The track equipment was to be transported on two trucks and, having loaded the first piece of equipment, it became necessary to reposition the truck crane in order to load the other machines. The Claimant asked Machine Operator Roe to enter the truck cab of the crane and to place the truck in remote control so that he could maneuver the same from his crane operator's position. When Claimant started the truck crane's engine, it was set in reverse gear and ran into the Ford truck. Claimant was subsequently notified to attend a hearing scheduled to be held on August 18, 1970. The hearing was postponed and subsequently was held on August 21, 1970. After the hearing, Carrier addressed a letter to Claimant dated August 26, 1970, advising Claimant that he had been found guilty of violating Safety Rule 274 and was suspended from service for a period of 30 days to commence August 31, 1970. The Organization contends that the 30 days suspension assessed was disproportionate to the alleged offense. Carrier contends that the evidence adduced at the hearing showed conclusively that the Claimant was negligent in allowing Roe to operate the involved equipment without telling Roe to take the transmission out of gear; that Claimant admitted he knew that Roe had never operated a truck crane similar to the one in question; and that the discipline assessed because of such negligence was warranted.

The record in this case discloses that Carrier entrusted Claimant with the Highway Truck Crane involved in this dispute. Carrier has the right to require the operation of such equipment to be free of negligence. Before Claimant allowed or delegated Mr. Roe the task of putting the crane in remote control, Claimant had the duty to issue proper instructions and to ascertain that Mr. Roe understood and was capable of following such instructions. The record discloses

that Claimant knew that Mr. Roe had never operated the involved crane and was negligent in delegating the operation of this crane to Mr. Roe without proper instructions. It is not necessary that a serious accident involving injury or destruction to property should occur in order that an employe can be disciplined for acts of negligence. This Board finds that there is sufficient probative evidence contained in the record to show that Claimant was negligent in allowing the involved crane to be operated by an inexperienced employe without proper instructions. This Board further finds that the discipline imposed (30 days suspension) was not excessive. Also, it is well established that in discipline cases, this Board will not substitute its judgment for that of Carrier unless Carrier acts arbitrarily or capriciously.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: _____

E. H. Sullivan
Executive Secretary

Dated at Chicago, Illinois, this 14th day of February 1973.