

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22074
Docket Number CL-22144

Robert A. Franden, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8410) that:

(1) Carrier violated the Agreement between the parties when it determined that Operator R. W. Harrison violated Rule 250-D of the Operating Rules on April 3, 1974, and suspended him from service for thirty-five (35) days, and

(2) Carrier, because of such wrongful action, shall reverse the decision rendered assessing discipline and exonerate Mr. Harrison of involved charges and, by reason thereof, compensate him for all wage losses suffered during the period April 4, 1974 through May 8, 1974.

OPINION OF BOARD: On April 3, 1974 a collision occurred between two engines in the Baltimore Terminal. Operator Harrison who was on duty at HB Tower when the wreck occurred was charged with responsibility in connection with the collision and ordered to appear for investigation. The investigation was held after which Claimant was suspended for 35 days for routing the trains in violation of Operating Rule 250-D thus causing the collision.

Both the Claimant and the Carrier raise procedural issues. We find all to be without merit. This claim is properly before this Board after being properly progressed on the property. The notice of the hearing was adequate and the claim was timely progressed.

While we find the evidence to support the finding of fault against the Claimant we also find that the yard foreman contributed to the occurrence of the wreck which works to mitigate the fault of the Claimant. We find that given the circumstances of the instant case a 15-day suspension would have been appropriate and accordingly hold that same should be reduced.

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 violated.

A W A R D

Claim sustained in accordance with the above Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1978.

