

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23545  
Docket Number SG-24035

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (former New York Central - Lines West):

On behalf of R. V. Gallinat, who was suspended thirty days for an incident that occurred at Livernois Avenue on Monday, October 29, 1979, that his record should be cleared and he should be paid for all wages lost."

(System Docket 1444)

OPINION OF BOARD: On October 30, 1979, Claimant was notified to attend an investigation concerning an incident with a vehicle. Subsequent to the investigation, the Carrier suspended the Employee for "30 actual working days."

Certain procedural matters have been raised by the Employee and considered by us; but we see no impediment to a consideration of the case on its merits.

The record shows that when the Claimant attempted to start the "gang truck", it moved in reverse and pinned one of the members of the gang, thereby causing a personal injury. However, the Organization insists that the truck had a faulty transmission.

Our reading of the record convinces us that the Employee did not exercise the full degree of care which was reasonably required by the circumstances. However, we do not find any evidence to suggest that his actions were taken in total disregard of the safety of others, or that it was grossly negligent. Accordingly, we will only approve a suspension for seven (7) actual working days.

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;

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: *A. W. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.