

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26561
Docket Number SG-26385

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Union Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of D. L. Richard for all time and benefits lost account of being assessed a five day suspension account of his involvement in a company vehicle accident on March 14, 1984. Carrier file 013-220-R."

OPINION OF BOARD: Claimant was issued a five (5) day suspension for his involvement in a vehicular accident on March 14, 1984. The Claimant, a Carrier Maintainer, was working with another Maintainer, N. P. Mawford. Mawford's vehicle got stuck in the mud twice. The first time, the Claimant pulled him free with his vehicle. The second time, a B&B boom truck driver offered to pull Mawford out with his vehicle's winch. In so doing, the Claimant sat in the boom truck's cab using the brakes to prevent slippage. When Mawford's vehicle was pulled free, the Claimant was asked to move the boom truck forward. He attempted to do so, but stalled. The boom truck rolled backwards and struck Mawford's truck causing approximately \$600 in damages. The Claimant did not deny his involvement as described above. As the operator of the boom truck, albeit voluntary, the Claimant must be held responsible for the damage to the truck.

In assessing the discipline, we believe the Carrier overlooked the totality of the Claimant's conduct which was well intentioned. The stalling of the boom truck was not envisioned. If it had been, the Claimant might have blocked the wheels as suggested by the Carrier. Under the circumstances presented by this record, we find the Carrier's issuance of a five (5) day suspension to be excessive. Accordingly, the Claimant's suspension is reduced to a letter of warning, and he is to be made whole for the wages lost.

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 Employee involved in this dispute are respectively Carrier and Employee 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: 
Nancy J. Dever - Executive Secretary

Dated at CHicago, Illinois, this 30th day of September 1987.