

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Oklahoma, Kansas & Texas Railroad Company

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

(1) The ten (10) days of suspension and the fifteen (15) days of deferred suspension imposed upon Machine Operator D. D. George for alleged violation of Rules I, K, 304, 309, 311, 367, A and 607 was without just and sufficient cause and unwarranted (System File OKT-D-1223).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

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 employees 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.

The Claimant has been employed for a period of eleven years.

Under date of April 10, 1986, the Carrier filed charges against the Claimant, which read, in pertinent part, as follows:

"Please arrange to report to the Assistant Division Engineer's Office, OKT Railroad Company 127 E. Chickasha Avenue, Chickasha, Oklahoma, Monday, April 14, 1986, at 11:00 a.m., for a formal hearing to be held to develop the facts and determine your responsibility, if any, when at approximately 3:30 p.m. on March 14, 1986, near MP 571, two miles south of Bridgeport, Texas, while operating Torsion Beam Tamper RM 1120 you allegedly ran into Ballast Regulator RM 1115 which was unoccupied and was standing on the track causing extensive damage to the rear end of RM 1120."

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88-3-87-3-2

At the investigation of the charges, held on April 14, 1986, the Claimant was present and represented by the Organization. The investigation was conducted in a fair and impartial manner.

Following the investigation, the Carrier found Claimant culpable of the charges. Based upon those findings, the Carrier assessed a ten (10) day actual suspension and fifteen (15) day deferred suspension.

Upon due consideration of all the evidence in the record, we find the evidence sufficient to support the Carrier's charge; however, we find the discipline assessed to be excessive. The suspension shall be reduced to a ten (10) day actual suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.