

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31333  
Docket No. MW-31636  
96-3-93-3-651

The Third Division consisted of the regular members and in addition Referee Andree Y. McKissick when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance Way Employees  
(CSX Transportation, Inc. (former  
( Louisville and Nashville Railroad Company)

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

- (1) The discipline (letter of reprimand) assessed Crane Operator B. D. Brown for his alleged responsibility for the damage to the engine on Crane MC8602 during the month of September 1992 was without just and sufficient cause and based on an unproven charge [System File 11 (9) (92)/ 12 (92-1494) LNR]."
- (2) As a consequence of the violation referred to in Part (1) above, Crane Operator B. D. Brown shall now have his record cleared of this incident."

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 employee 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.

This claim involves the alleged negligent conduct of Claimant when he repeatedly ignored the warning signal of insufficient oil and restarted Little Giant Crane 8602 thus causing irreparable damage to the engine.

The Organization contends that the evidence is speculative and insufficient to sustain the Carrier's burden of proof. It argues that the Carrier only surmised that the Claimant brought about damage to the engine.

The Carrier responds that the Claimant's negligent conduct was the direct cause of engine damage costing the Carrier \$5,700.00, the replacement cost of a new engine.

The Board finds that the Carrier met its burden of proof with substantive, substantial evidence as it proved that the Claimant failed to heed the warning signal which brought the ultimate, irreparable damage to Crane MC8602. Thus, the Board concludes that the discipline was justified.

AWARD

Claim denied.

ORDER

The Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of January 1996.