

PUBLIC LAW BOARD NO. 1760

Award No. 130

Case No. 130

Docket No. MW-DECR-89-46

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company
(Former Wabash)

Statement

of Claim: Claim of Trackman A. B. Wessel for pay for all time lost while suspended 15 days for failure to properly perform his duties in a safe manner August 23, 1989, resulting in personal injury to another employee.

Findings: The Board has jurisdiction of the of this case by reason of the parties Agreement establishing this Board therefor.


This is a companion case to that in our Award 126 the findings of which by reference are incorporated herein.


The Claimant Trackman, A. B. Wessel, was working as a Laborer in Extra Gang 103 at Luther Yard, St. Louis, MO, on August 23, 1989. While and he the Claimant Trackman in Case 126, Mr. Beck, (Award 126) held a spike lifter that was hit by a spike maul handled by Mr. Wessel. As a result of that blow a piece of metal broke off the spike maul and struck Mr. Beck in the left leg causing him to lose 25 days from work.

Wessel admitted he used the wrong maul both prior to the investigation and at the investigation. He testified that they normally used a sledge hammer to strike a spike lifter. Wessel also testified that he was not thinking when he picked up and used the spike maul to hit the spike lifter. Wessel admitted that the sledge hammer was available on the truck a short distance away. For the reasons assigned in Award 126 this claim will also be denied.

Award: Claim denied.


S. Hammons, Jr. Employee Member


C. F. Miller, Jr. Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member