

PUBLIC LAW BOARD No. 2366

AWARD No. 75

DOCKET No. 89

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM

1. Claim on behalf of T. R. Fairfield for restoration of his Group C Machine Operator's seniority and for the difference in Group C Machine Operator's rate and the rate of his current position account of his disqualification for damaging Tamper MT 206 on September 14, 1983.

OPINION OF THE BOARD

The Claimant was notified of an investigation concerning a charge that he damaged a Tamper, which resulted in delay to a passenger train. Subsequent to the investigation, the Claimant was disqualified as a Group C Machine Operator.

Although the Employee has the responsibility to inspect his assigned machine to see that it is properly serviced and maintained, the Claimant here admitted that he did not check the spring latch to ascertain that it was properly engaged. As a result, according to the Carrier, the turntable dropped causing damage to the Tamper. Further, it argues that the discipline assessed was warranted due to the damage inflicted and a past history of damaging other tampers and machines.

The Claimant argues that the day in question was his first day of operating the Tamper in question. Further, there is some question as to the instruction given to the individual concerning this machine and there were no warning lights or other external indication of a problem.

After thorough review of the record, we are of the view that the Claimant demonstrated a degree of culpability. However, even recognizing his prior record, we

question that a permanent disqualification is in order. Accordingly, we will remove the disqualification, but with no reimbursement for any compensation lost.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

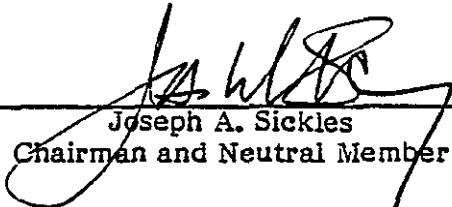
This Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due and proper notice of hearing thereon.

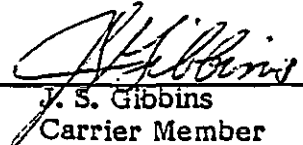
AWARD

1. Claim is sustained to the extent that Group C Machine Operator's seniority shall be restored prospectively, however, no reimbursement for any compensation lost is directed.

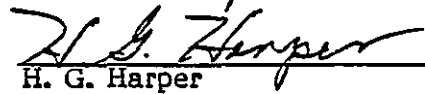
2. Carrier shall comply with this Award within thirty (30) days of the date hereof.



Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbins
Carrier Member



H. G. Harper
Organization Member

September 30, 1985
Date