

PUBLIC LAW BOARD No. 2366

AWARD No. 76

DOCKET No. 90

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM

1. Claim on behalf of R. H. Roe, Jr., for pay for each work day missed and removal of discipline from his record account his thirty (30) calendar day suspension beginning October 31, 1983, for his responsibility in a collision between his tamping machine and a tie spiker.

OPINION OF THE BOARD

The Claimant was notified of an investigation on a charge that he was responsible for the collision of a tamping machine and a tie spiker. Subsequent to the investigation, the Claimant was assessed a thirty-day suspension.

The Carrier asserts that the Claimant failed to maintain proper braking distance between his machine and, as a result, he collided with a tie spiker and two employees were seriously injured. The Carrier asserts that a thirty-day suspension was, in fact, lenient considering the negligent manner in which the Claimant operated the machine in slippery weather. The Carrier claims that the Claimant knew, or reasonably should have known, that the rail had been oily all week and therefore, additional caution was required.

The Claimant testified that everything was working perfectly on his machine and he denies he was proceeding too fast. He presumes that the oily condition of the rail caused the collision.

From the circumstances of record, and the undisputed factual events, the Carrier was justified in drawing the reasonable presumptions of negligence. A thirty-day suspension was warranted. We will deny the claim.

FINDINGS

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

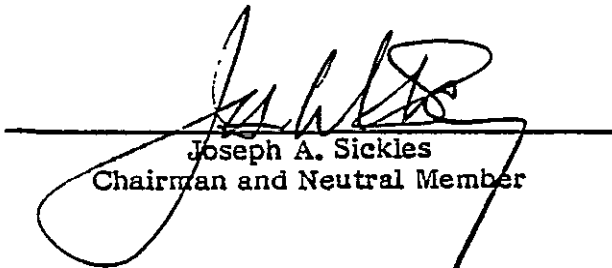
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

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 denied.



Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbins
Carrier Member



H. G. Harper
Organization Member

September 30, 1985
Date