

PUBLIC LAW BOARD NO. 2960

AWARD NO. 112
CASE NO. 134

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The ten (10) day suspension assessed Machine Operator D. W. Wasem was without just and sufficient cause and punitive. (Organization File 6D-3966; Carrier File 81-84-8-D).
- (2) Machine Operator D. W. Wasem shall have his personnel record cleared of this charge and he shall be compensated for all wage loss suffered.

OPINION OF THE BOARD

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and Carrier involved in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

On August 10, 1983, the Claimant was directed to attend an investigation on the following charge:

"Your responsibility for failure to perform your duties in a safe manner, resulting in personal injury to Mr. G. P. Mehrer and damage to Jr. Tamper, System Machine No. 17-2455 on August 9, 1983, while employed in the Miller, South Dakota vicinity."

After the investigation, the Claimant was assessed the discipline now on appeal before the Board.

It is noted that charge involves Rules 346, 1011 and 1012, which state respectively:

"Before work is begun, all machines, including cables and working parts, must be inspected to know they are in safe condition."

"Employee in charge of work equipment will be personally responsible for the safe operation of the equipment."

"Employee in charge will be responsible to determine that work equipment is kept in safe operating condition and is ready for use at all times."

It is the opinion of the Board that based on the rules involved and the evidence, there is a sufficient basis to justify the suspension.

It was established that while he was in a traveling mode, the turntable mechanism under his tamper truck struck a crossing plank, derailing and seriously damaging the machine, and injuring another employee. The cause of the accident clearly was the fact that at least two of the six bolts that hold the turntable to the main frame of the tamper were missing, which caused the turntable to drop and strike the crossing plank. The bolts were subject to excessive hole wear causing them to drop out. The inspection of the machine also establishes that two other bolt holes had also worn excessively and would have eventually failed.

It was also established that these bolts were clearly visible as one walked around the machine, and had a more adequate inspection been conducted, the fact that they were missing could have been detected.

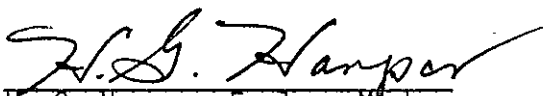
In view of the foregoing, the Claim is denied.

AWARD:

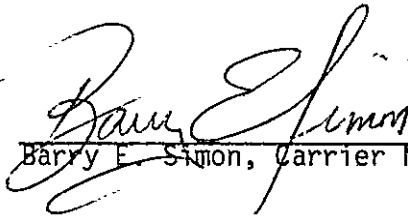
The Claim is denied.



Gil Vernon, Chairman



H. G. Harper, Employee Member



Barry F. Simon, Carrier Member

Dated: April 4, 1986