

PUBLIC LAW BOARD NO. 2960

AWARD NO. 114
CASE NO. 142

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 deferred suspension assessed Trackman G. P. Mehrer was without just and sufficient cause, arbitrary and capricious. (Organization File 6D-3966; Carrier File 81-84-87-D).
- (2) Trackman G. P. Mehrer shall be allowed the remedy prescribed in Rule 19(d).

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.

This is a companion case to Case No. 134. The Claimant in Docket 134 was the Driver of a tamper, which was involved in an accident causing injury to an employee who was riding on the equipment. The Claimant here is that employee. He too was di-

rected to attend an investigation, received the same investigation notice as the Claimant and both were investigated at the same time.

This case, however, involves different rules. These are Rules 1026 and 1056 which read respectively as follows:

"All occupants should be assigned to ride in a certain place on work equipment, instructed to use safety rails, if provided, and will not be permitted to ride in insecure positions. Unnecessary conversation by the operator or occupants while equipment is in motion is prohibited. It is the duty of all occupants to aid the operator in safe handling of the equipment."

"In case of doubt, adopt the safe course. It is better to be delayed than to have an accident."

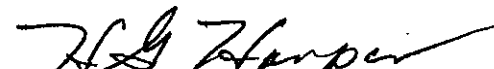
A review of the transcript convinces the Board that the Claimant could have done a little more to secure his position on the tamper -- he was holding onto the handrail with only one hand. The fact he did not do as much as he could is enough to justify a ten-day deferred suspension.

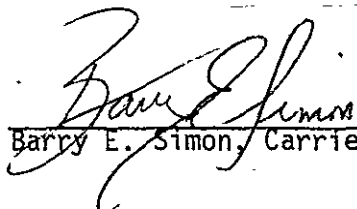
In view of the foregoing, the Claim is denied.

AWARD:

The Claim is denied.


Gil Vernon, Chairman


H. G. Harper, Employee Member


Barry E. Simon, Carrier Member

Dated: April 4, 1966