

PUBLIC LAW BOARD NO. 2960

AWARD NO. 59

CASE NO. 58

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employes

and

Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The thirty (30) day suspension assessed Foreman T. Wybourn and Machine Operator R. D. Clayton "for damage caused to signal wires by Burro Crane in Sterling, Illinois, on September 22, 1981" was without just and sufficient cause, unwarranted and excessive. (Organization's File 3D-2483; Carrier's File D-11-1-472)
- (2) Foreman T. Wybourn and Machine Operator R. D. Clayton shall have their respective records cleared of the charge and 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 the 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 September 23, 1981, the Claimants were jointly directed to attend an investigation on the following charge:

"Your responsibility for damage caused to signal wires by Burro Crane in Sterling, Illinois on September 22, 1981."

The investigation was held after a postponement on October 13, 1981. On October 16, 1981, the Claimants were assessed the discipline now on appeal before the Board.

A review of the transcript convinces the Board that both Claimants bore a responsibility in the accident. There is simply no evidence to indicate that the accident was caused by anything other than lack of close observation by the Operator and the Groundman who were assigned for such a purpose.

The remaining question relates to the quantum of discipline. The Organization argues it is excessive. Thirty days is certainly a firm penalty. However, few accidents with a crane can be viewed as more serious than a collision with overhead wires. The potential danger of such an accident can hardly be questioned.

In view of the foregoing, the Claim will be denied.

AWARD: The Claim is denied.



Gil Vernon, Chairman



H. G. Harper, Employee Member



J. D. Crawford, Carrier Member

Dated: June 5, 1984