

PUBLIC LAW BOARD NO. 2960

AWARD NO. 70
CASE NO. 66

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 five (5) day suspension assessed Boom Truck Operator M. L. McLaughlin was without just and sufficient cause. (Organization File: 2D-2546; Carrier File D-11-24-86).
- (2) The Claimant 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 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.

The Claimant was directed to attend an investigation to be held on October 21, 1981. The charge read as follows:

"Charge: Your responsibility in connection with accident while operating White Boom Truck, System #21-3074 at the Intersection of Easton Boulevard and Delaware, Des Moines, Iowa on October 12, 1981."

Subsequent to the investigation the Claimant was assessed the discipline

now on appeal before the Board.

Several pertinent facts are undisputed. On the day in question, the Claimant was operating a Boom Truck when he was stopped at a public intersection controlled by a four-way stop sign. The Claimant testified that to make room for a semi-truck which was turning, he backed his truck up. In the process, he struck the car in back of him.

It is the conclusion of the Board that the Claimant had sufficient culpability to warrant the issuance of discipline. While the semi caused the necessity to back up, the Claimant struck the car because he, by his own admission, misjudged the distance between his truck and the car behind him. Had he properly judged the distance, the accident with the car could have been avoided.


With respect to the quantum of a five-day suspension, while substantial, is not wholly unreasonable so as to be considered arbitrary and capricious. The Carrier must have the right to take reasonable steps to assure that its employees operate vehicles safely, especially in public where unsafe operation can lead to significant liabilities.

AWARD":

The Claim is denied.



Gil Vernon, Chairman


H. G. Harper, Employee Member
J. D. Crawford, Carrier Member

Dated: October 22, 1984