

Parties
to the
Dispute

Pennsylvania Federation Brotherhood of
Maintenance of Way Employes

vs.

Consolidated Rail Corporation

AWARD No. 11
Case No. 7

STATEMENT OF CLAIM

(a) That Dale T. Wagner, employed for eight years, Track Foreman at time of incident, be restored to service with seniority rights and all other privileges provided for by either agreement or past practice. That he be compensated for all lost time until such time he is returned to the service of the railroad as a Track Foreman.

(b) That Dale T. Wagner's record be cleared of all charges brought against him.

OPINION OF THE BOARD

Claimant Dale T. Wagner, an MW Track Foreman at East Penn Branch in Easton, Pennsylvania, was charged with failing to erect stop signs. This resulted in the collision of WLAL97 and a backhoe. A hearing into this charge was held June 25, 1982, at which time Claimant was found guilty and ordered suspended for 30 days.

In essence, this case centers on the question of responsibility

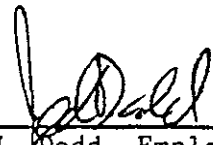
for the accident. Petitioner contends that Claimant's fault has not been shown by Carrier. This Board has reviewed the transcript of this hearing and is fully convinced that Claimant, as Carrier's representative on site, was responsible for the accident, inasmuch as it was a direct result of his negligence that the accident occurred. Had Claimant erected the proper safety signs, both train and backhoe could have been protected.

Track safety is of primary concern to Carrier for obvious reasons. Claimant's negligence cannot be sidestepped or lessened by pointing a finger at the backhoe operator (a non-rail employe) or the train dispatcher. In order to guard itself from loss, Carrier has every right to expect its employes to follow rules established to protect not only itself, but the people and products on or around its line as well. This Board can see no reason to upset the previous decision.

AWARD

The claim is denied.


R. E. Dennis, Neutral Member


J. Dodd, Employe Member
6-12-85
Date of Adoption


R. O'Neil, Carrier Member