

PUBLIC LAW BOARD NO. 3765

Parties  
to the  
Dispute

CONSOLIDATED RAIL SYSTEM FEDERATION  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD COMPANY

Case No. 21  
Award No. 18

STATEMENT OF CLAIM

The discipline assessed Foreman R. J. Buysse was without just and sufficient cause and was predetermined and based on unproven charges.

Claimant R. J. Buysse shall be exonerated of the charges and compensated for all lost earnings from November 14, 1985, until December 2, 1985, and his personal record shall be expunged of all reference to the charges.

OPINION OF THE BOARD

At the time of the incident that gave rise to this case, Claimant R. J. Buysse was working as a Foreman on Smoothing Unit #1 in the vicinity of Mishawaka, Indiana. While moving the track equipment from Mishawaka to Willsboro, Indiana, a collision between two of the machines took place and considerable damage to the machines resulted.

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On November 23, 1985, Claimant was charged as follows:

...to determine your responsibility, if any, for not reporting an incident in the proper amount of time according to instructions sent to you from Mr. J. C. Rosser, Supervisor of Mach. & Auto. Equipment, Durand, on August 1, 1985, after a collision of two electromatic torsion beams at Stillwell, Indiana on Tuesday, November 12, 1985, at approximately 8:00 o'clock P.M.; and your allegedly not fulfilling your responsibilities as a Foreman for the safe operation of equipment while moving, resulting in above collision.

A hearing into the matter was held on November 27, 1985. A transcript of that hearing has been made a part of the record. A review of that record reveals that Claimant was afforded all rights granted by Agreement and that he was guilty as charged. It also reveals that Carrier required Claimant to move the track equipment under adverse conditions. The record indicates that it was dark, rainy, and foggy. There was no communication equipment between the moving machinery and there was no proper lighting. Given these conditions, it is inappropriate that Claimant be held totally responsible for the damage to the machinery. Carrier should not have allowed the move under such conditions.

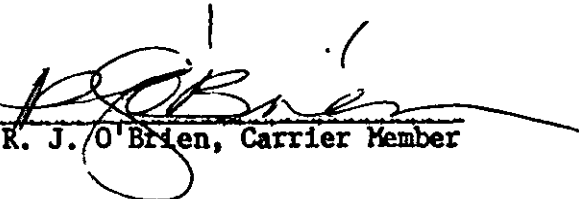
In the interest of fairness and equity, this Board has concluded that Carrier can make its point in this case with a five-day suspension. We therefore direct that Carrier reduce the 11-day suspension to a five-working day suspension and pay Claimant for all time lost

beyond the five days.

AWARD

Claim sustained per opinion  
of the Board.

  
R. E. Dennis, Neutral Member

  
R. J. O'Brien, Carrier Member

  
W. G. LaRue, Employee Member

1-30-89  
Date of Approval