

PUBLIC LAW BOARD NO. 3765

Parties  
to the  
Dispute

CONSOLIDATED RAIL SYSTEM FEDERATION  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

vs.

GRAND TRUNK WESTERN RAILROAD COMPANY

Case No. 23  
Award No. 20

STATEMENT OF CLAIM

The discipline assessed Track Foreman R. C. Franklin was without just and sufficient cause and a violation of the collective bargaining agreement.

The Carrier shall restore Claimant R. C. Franklin to his original seniority dates as a track foreman and assistant track foreman, without loss of compensation, including overtime, from December 30, 1985.

OPINION OF THE BOARD

Claimant R. C. Franklin was assigned as a Track Foreman at Lansing, Michigan. On December 12, 1985, a derailment occurred on the Millett pass. It was determined that the derailment was caused by wide gauge due to a deteriorated tie conditions and one new tie spiked at 58 inches.

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On December 13, 1985, Claimant was charged as follows:

...to determine your responsibility, if any, for failure to perform your duties as a foreman in taking proper remedial action on your Yard Switch Inspection Reports of August 26, 1985, and November 27, 1985, resulting in derailment AX-238-C on the Millett Pocket at Lansing, Michigan at approximately 0300 hours on Wednesday, December 12, 1985, derailing six cars.

A hearing was held on December 18, 1985. On December 30, 1985, Claimant was notified that he was found guilty and would be required to forfeit his Foreman and Assistant Foreman seniority rights.

After a review of the record, this Board finds that the complete loss of seniority in this instance to be a far more severe penalty than is necessary for Carrier to make its point. We therefore direct that Claimant be reinstated to his former seniority position on both the Assistant Foreman and Foreman rosters. He shall not be paid for any lost work opportunities.

AWARD

Claim is sustained per Opinion of the Board.

R. E. Dennis  
R. E. Dennis, Neutral Member

R. J. O'Brien  
R. J. O'Brien, Carrier Member

W. B. LaRue  
W. B. LaRue, Employee Member

1-30-89  
Date of Approval