

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. 24  
Award No. 21

STATEMENT OF CLAIM

The 14-day suspension assessed Trackman R. C. Franklin was without just and sufficient cause.

Claimant R. C. Franklin shall be exonerated of the charges and compensated for all lost earnings, including overtime, and his personnel record shall be expunged of all reference to the charges.

OPINION OF THE BOARD

Claimant R. C. Franklin was employed as a Trackman in Lansing, Michigan. On March 11, 1986, Amtrak Train 64 hit a 39 foot, 100 pound rail that was being dragged across the tracks at Millett Road. The rail broke loose from the line used to drag it and lay across the tracks. Amtrak Train 64 hit it and sent it flying down the track. Claimant was charged with safety rule violations for his part in the incident.


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A hearing into the matter was held on March 24, 1986. Claimant was found guilty as charged and assessed a 14-day suspension. A review of the record reveals that Claimant was afforded a full and fair hearing and that record does not support a finding of guilt in this case. Claimant was not involved in the act of pulling the rail across the track. He was away from the scene, loading tools into the truck. He was under the supervision of a Foreman and he only followed whatever orders he was given. Claimant cannot be held responsible for the rail breaking loss from the line and fouling the tracks, just as he cannot be held responsible for the train colliding with the rail. The Grievant was the lowest ranked man at the scene. He is not responsible for what happened.

AWARD

The claim is sustained.

  
R. E. Dennis, Neutral Member

  
R. J. O'Brien, Carrier Member

  
W. E. LaRue, Employe Member

1-30-89  
Date of approval