

PUBLIC LAW BOARD NO. 4338

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Claim that the discipline of thirty days deferred suspension imposed on Wyoming Division Track Machine Operator M. D. Salas for alleged violation of Rules 609 and 611 was arbitrary, capricious, and unwarranted on the basis of unproven charges and in violation of the Agreement. That the claimant's record shall be cleared of the discipline and he shall be compensated for any wage loss, if any, suffered.

FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to attend an investigation to develop the facts and determine responsibility for his alleged improper operation of TMT-193-JPS (Jackson Tamper) on or about July 6, 1987 which resulted in excess of \$1,000 in damages and considerable production delay. Pursuant to the investigation the claimant was found guilty and was assessed 30 days deferred suspension.

The claimant was employed as a track machine operator. C. W. Saunders, Work Equipment Supervisor, testified that as a direct result of the claimant's operation of the Jackson Tamper, a replacement of a new travel motor, indexing motor, was required, and there was considerable down time on the machine and a loss of production.

Supervisor Saunders also testified that the machine is equipped with warning devices to warn the operator should the machine be left in the index mode once they go into travel with the machine, and in all cases traveling is the operation which makes the motor burst or break, or hoses, and not from the indexing. He stated that the evidence indicates the machine was left in the indexing mode and traveled enough to ruin the travel mode. He stated the claimant was a qualified operator and had qualified on this equipment.


Evidence indicates that Road Machinist Mike Schmidt instructed the claimant that the machine could be traveled but could not be worked. Witness Schmidt testified that the malfunction ruined the indexing motor which would have had to occur during the traveling operation. He stated that the claimant was aware that the machine was capable of traveling only and not for work.

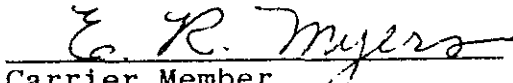
Road Machinist G. D. Chambers testified that he worked on the repair of the machine. He testified that the hydraulic motor cracked right down the side and blew up. He also testified that the cause would be from trying to move the machine, the front gear box would have been engaged, and if you go to fast travel with it, which is a no, no, then it will blow up. He stated there was a device to prevent that, and that the device was working.

All of the testimony of the claimant has been carefully studied and considered, as well as the testimony of Section Foreman Madrid. After reviewing all of the evidence, the Board finds that the Carrier was justified in finding the claimant guilty as charged.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated: November 10, 1987