

PUBLIC LAW BOARD NO. 4373

PARTIES	SOUTHERN PACIFIC TRANSPORTATION CO. )	
	(EASTERN LINES) )	
	)	AWARD NO. 6
TO	AND	)
	)	CASE NO. 6
DISPUTE	BROTHERHOOD OF MAINTENANCE OF WAY )	
	EMPLOYES )	

STATEMENT OF CLAIM:

1. Carrier violated the effective Agreement when Machine Operator Helper R. D. Allen was unjustly suspended from service.
2. Claimant Allen shall now be paid for 240 hours at helper straight time rate of pay and charge letter of April 30, 1987, removed from his personal record.

HISTORY OF DISPUTE:

At the time of the events giving rise to the claim in this case Claimant was working as machine operator helper on the Houston District.

On March 23, 1987 Claimant was working on a threader car unloading ribbon rail and was positioned approximately twenty feet from the nearest steps on the car. Believing that the train was about to unhook from the car and anticipating a jarring movement that could throw him from the car, Claimant jumped and sustained a personal injury..

By letter of April 30, 1987 the Carrier notified Claimant that his conduct had violated Rules A and I, Rule 607 and Rule 5025 for which Claimant was suspended from the Carrier's service for thirty days. The Organization requested an investigation which was held. Subsequent correspondence from the Carrier confirmed its original findings and reaffirmed the assessment of discipline.

The Organization grieved the discipline. The Carrier denied the grievance. The Organization appealed the denial to the highest officer of the Carrier designated to handle such disputes. However, the dispute remains unresolved, and it is before this Board for final and binding determination.

FINDINGS:

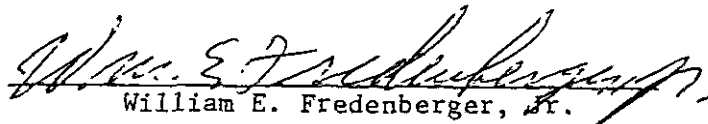
The Board upon the whole record and all the evidence finds that the employees and the Carrier are employees and Carrier within the meaning of the Railway Labor Act, as amended, 45 U.S.C. §§151 et seq. The Board also finds it has jurisdiction to decide the dispute in this case. The Board further finds that the parties to the dispute, including Claimant, were given due notice of the hearing in this case.


The record clearly establishes that Claimant's action in jumping from the threader car rather than getting off the car by use of the steps was not in accordance with the rules. Claimant fully understood that fact. The Organization pleads mitigating circumstances. Specifically, it argues that prior to jumping from the car Claimant had observed the train move with employees on the car and thus concluded that the train would begin to move before he could get off the car using a ladder. However, Claimant understood that it is standard practice for a train not to couple to cars while employees are on them. The supervisor of the movement in fact would have stopped the movement to allow Claimant to get off the car by use of the ladder. Under these circumstances we must conclude that Claimant in essence panicked and made an unsafe move which resulted in a personal injury. In view of the

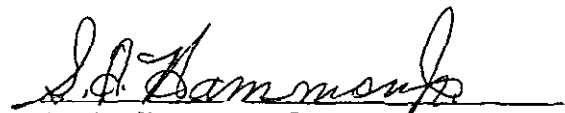
fact that safety is of paramount importance, we cannot find that a thirty-day suspension to impress that fact upon Claimant was excessive or otherwise improper.

AWARD

Claim denied.

  
William E. Fredenberger, Jr.  
Chairman and Neutral Member

  
R. O. Naylor  
Carrier Member

  
S. A. Hammons, Jr.  
Employee Member

DATED: June 28, 1988