

Brotherhood of Maintenance of Way Employees

and

Burlington Northern Railroad Company

STATEMENT OF THE CLAIM

1. The discipline (five days' suspension from service) imposed upon Truck Driver G. L. Cox for alleged violation of Rule 346 of the Burlington Northern Safety Rules and General Rules was unwarranted and on the basis of unproven charges (System File REG-SP-150/AMWB 87-03-02D).
2. The Claimant's record shall be cleared of the charge leveled against him and he shall receive five (5) days pay.

FINDINGS OF THE BOARD

On May 15, 1986, the Claimant, Mr. Glenn L. Cox, in the course of driving past a parked vehicle, caused damage to that other (Carrier) vehicle. In order to pass the parked vehicle, it was necessary for Mr. Cox to drive partly on a raised embankment. By all accounts, Mr. Cox was driving very slowly. Apparently, in the course of this maneuver, a grate on Mr. Cox's vehicle shifted, it caught in the side mirror of the parked vehicle and as a result, the parked vehicle's side door was damaged. Mr. Cox contends that he operated his vehicle in a safe and prudent manner. The Carrier contends that given the narrow space for passage, Mr. Cox should have relocated the parked vehicle before he attempted passage. In other words, Mr. Cox chose a less safe option and an accident occurred.

We must conclude from the record that Mr. Cox used poor judgement and acted in an unsafe manner. The need to drive forward at an angle (partly on the embankment) evidently caused the grate to shift. The vehicle's very slow speed ("slower than walking") also underscores the precariousness of the option chosen by Mr. Cox. There is substantial evidence that Mr. Cox operated his vehicle in a manner that endangered the Carrier's property.

Upon consideration of the record and Mr. Cox's years of service with the Carrier, we find that discipline has served its purpose.

AWARD

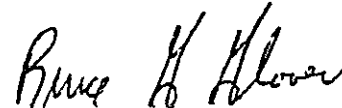
Notation of the disciplinary suspension shall be removed from Mr. Cox's records, however, he shall not be made whole for lost wages.



Ronald L. Miller  
Chairman and Neutral Member



Maxine Timberman  
Carrier Member



Bruce G. Glover  
Organization Member

16 Sept 1988

Date