

PUBLIC LAW BOARD NO. 4431

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

BURLINGTON NORTHERN RAILROAD COMPANY

Case No. 16

STATEMENT OF CLAIM

Claim of Welder D. L. Pulse for all time lost
as a result of five-day suspension and removal
of discipline mark from his personal record.

FINDINGS

At the time of the incident that gave rise to this case, Claimant D. L. Pulse was a Welder at Miles City, Montana. He was assigned a Company truck for transportation to and from the job site. On December 10, 1986, he backed his truck up to an embankment along the right of way at the site. Some time later, a Signalman drove to the site and parked his truck next to Claimant's on the passenger side. The Signalman drove his truck directly in toward the track. He did not back in, as Claimant had.

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When Claimant left the work site, he was forced to cut his wheels to the right in order to clear a pile of brush. When he pulled out of his parking place, the tool box on his truck struck the right rear corner of the box on the Signalman's pickup.

Carrier cited Claimant for having an accident and damaging his vehicle. A hearing into the matter was held on January 9, 1987. As a result of that hearing, Claimant was found guilty of a violation of Rule 336(k) of the Burlington Northern Railroad Safety Rules and General Rules for failure to check around parked vehicles for obstructions or hazards before moving forward or backwards.

This Board has reviewed the record, including the transcript of the hearing, and we are forced to conclude that Claimant did in fact fail to check around his vehicle before he moved it. We have looked in this record for some facts that could mitigate against Claimant being solely responsible for the accident. We are unable to find any. We are therefore compelled to support Carrier in this instance.

AWARD

The claim is denied.

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

B. G. Glover
B. G. Glover, Employee Member

M. M. Timberman
M. M. Timberman, Carrier Member

8-10-89
Date of Adoption