

PUBLIC LAW BOARD NO. 4431

Parties  
to the  
Dispute

:  
:  
: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES :  
:  
: vs. :  
:  
: BURLINGTON NORTHERN RAILROAD COMPANY :  
:

Case No. 17

STATEMENT OF CLAIM

This claim is to pay Mr. R. D. Byrd for all time lost and the investigation be removed from Mr. R. D. Byrd's record.

FINDINGS

Claimant R. D. Byrd was, at the time of the incident that gave rise to this case, employed by Carrier as a Laborer. He was assigned to Tie Gang No. 8 at Lyle, Washington. At the completion of the day's work on June 25, 1986, Claimant, as well as other employees, were riding the Tie Tamper from the job site to the station to tie up for the night. Prior to the Tamper coming to a complete stop in the station, Claimant stood up to grab his lunch bucket. At that point, the Tamper moved forward and Claimant fell off, injuring himself. Claimant was charged

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with an unsafe action and an investigation was scheduled. As a result of that investigation, Claimant was found guilty and assessed a five-day suspension.

This Board has reviewed the record and we are compelled to conclude that Claimant acted in an unsafe manner when he stood up to get his lunch bucket while the Tamper was still moving. The Board has also concluded that we can not substitute our judgment for that of Carrier in dealing with unsafe behavior that leads to employees being injured. We therefore conclude that Carrier did not violate Claimant's rights by the manner in which the charges were made or the hearing was carried out, and that a five-day suspension is appropriate.

AWARD

The claim is denied.

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

Bruce H. Glover  
B. G. Glover, Employee Member

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

8-10-89  
Date of Adoption