

Award No. 10
Case No. 27

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Louisville and Nashville Railroad Company

STATEMENT
OF
CLAIM:

1. Suspension of Welder Helper I. Fisher for 10 work days was without just or sufficient cause.
2. The record of claimant shall be cleared of the charges and he shall be paid for all time last pursuant to paragraph 1 of Rule 27(f).

FINDINGS:

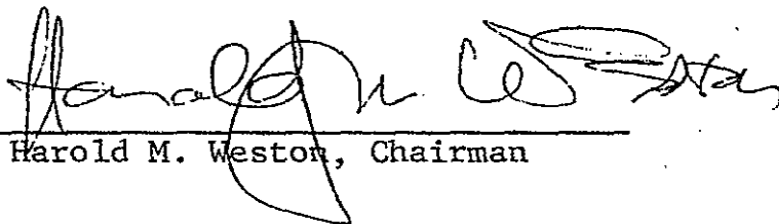
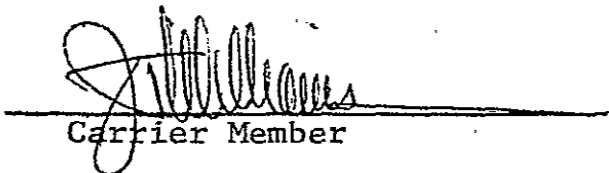
While claimant and another welder, L. K. Cox, were engaged in repairing defective welds, the power drill that was being used was struck and damaged by a train. Cox was in charge of the operation and was demoted because of the incident; six months later, he was restored to the Welder position.

2363-AWD 10

While Cox was in charge of the project at the time the drill was struck, we find no basis for substituting our judgment for that of Carrier in this matter and setting aside its conclusion that claimant should have been more alert. Claimant was aware that they were receiving no flag protection at the time in question. The difference in the discipline administered to Cox and claimant adequately reflects the difference in their responsibility for the mishap.

AWARD:

Claim denied.

Adopted at Louisville, Kentucky, *December 10, 1979.*
Harold M. Weston, Chairman
Carrier Member
Employee Member