

Award No. 2
Case No. 2

Public Law Board No. 3514

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Claim by Track Foreman Arend Meinema appealing from 60-day record (time out of service to apply).

FINDINGS:

At about 9:47 a.m. April 3, 1982 an Amtrak train derailed. Claimant, after a hearing had been held in the matter, was given a 60-day suspension on the ground that he had failed to inspect properly the general area of the track defect.

Track Supervisor Johnson testified that he had been notified by a block operator at 5:35 a.m., April 3, 1982, of a reported kink in westbound no. 1 track east of mp 138.4. Johnson passed on the information to claimant and asked him to check the area. After his inspection, claimant advised Johnson that he went to mp 138.4, walked between .1 and .2 west, then proceeded east to 30th Street, but found no defect.

Mr. Johnson also testified that in making such an

inspection, he had always covered 1/2 mile minimum in either direction. It is also his testimony that the defect in question was within that 1/2 mile inspection area.

Claimant acknowledged that he had received a specific order from Mr. Johnson to check a reported kink at or east of MP 138.4 on #1. He testified that he checked the track by walking 2/10 of a mile west of MP 138.4 and looking down the track another 1/10 of a mile; he then proceeded east as Mr. Johnson testified. He did not use the high-rail vehicle that was available for track inspection. It does not appear that he was told to walk further west, in inspecting the track, after he called in to report what he had done.

The mere fact that a train derailment occurs does not necessarily warrant discipline for track inspection forces. In the circumstances of this case, however, we find no persuasive ground for substituting our judgment for that of Carrier even though we would not ourselves have suspended him for so long a period.

AWARD: Claim denied.

Adopted at Philadelphia, Pa., July 12, 1984.



Harold M. Weston, Chairman


Carrier Member
Employee Member