

PUBLIC LAW BOARD - NO. 3514

Case 43

Award 43

PARTIES: Consolidated Rail Brotherhood of Maintenance
 to Corporation and of Way Employees
DISPUTE:

STATEMENT OF CLAIM: That Trackman William Attardi was unjustly suspended for fourteen days as a result of a hearing held on August 19, 1981, that the discipline imposed be stricken from his record, and that he be compensated for all lost time while out of service.

FINDINGS: This dispute arose after the Carrier, subsequent to an investigation, found that the Claimant failed to properly protect Company equipment and that he violated one of its safety rules.

The Carrier maintains that the Claimant, who was a truck driver at the time that the incident leading to this dispute occurred, left the door open on his dump truck. Shortly thereafter, the truck was struck by a passing train, causing damage to the Carrier's equipment.

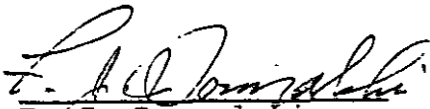
While the Organization raises a number of reasonable questions with respect to the causes of the train striking the truck (such as the condition of the equipment involved), the Carrier's conclusion that the incident occurred because of the Claimant's negligence is well-founded from the evidence adduced at the hearing. The Board

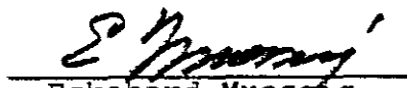
particularly notes the Claimant's admission that he did not close the truck door "hard enough". This acknowledgment, as well as other matters of record, provides substance to a finding of guilt to the basic charge.


Under the circumstances herein, the Board has no legitimate basis to disturb the penalty assessed.

AWARD

The claim is denied.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

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