

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

CONSOLIDATED RAIL SYSTEM FEDERATION
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD COMPANY

Case No. 20
Award No. 17

STATEMENT OF CLAIM

The disqualification of Track Foreman A. Tovar was without just and sufficient cause in violation of Rule 6 of the collective bargaining agreement.

Claimant A. Tovar shall be reinstated as a Track Foreman and granted a position as Track Foreman, and compensated for all lost earnings, including overtime.

OPINION OF THE BOARD

Claimant, A. Tovar, was at the time of the incident that gave rise to this case employed as a Track Foreman in Durand, Michigan.

On September 18, 1985, Claimant was charged as follows:

Failure to properly perform your duty by allowing an employee unfit for service to be on the Company Property on Wednesday, August 21, 1985 at approximately 0800 hours in Durand, Michigan.

A hearing into the matter was held as scheduled on September 24, 1985. A transcript of that hearing is a part of the record. As a result of that hearing, Claimant was found guilty and disqualified as a Foreman.

A review of that record reveals that Claimant was guilty as charged and was appropriately disciplined. It also reveals that a time limit issue was raised by the Organization. The Organization contends that Carrier became aware of the incident that resulted in this case on August 21, 1985, and did not hold the hearing until September 24, 1985. This is beyond the 30 days required by Rule 6(a) for holding such hearings. Carrier contends its investigation was not complete until August 28th when an investigation into the matter of the condition of the employe involved was concluded. It did not want to charge Claimant until it was decided that the other employe was not fit to work and should have been ordered off the property.

This Board has reviewed the record and must conclude that Carrier did not violate Rule 6(a) in its handling of this case. It acted properly in delaying the charging of Claimant and holding his hearing until it had all the facts.

As to the merits of this case, the Board is persuaded that Carrier has made its point and the discipline imposed has served its purpose. The Board therefore directs that Claimant be restored to his Track

Foreman status without pay for lost time effective immediately.

AWARD

The claim is sustained per Opinion
of the Board.

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

R. J. O'Brien
R. J. O'Brien, Carrier Member

W. E. LaRue
W. E. LaRue, Employee Member

1-30-89
Date of Approval