

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD
COMPANY

Case No. 52

STATEMENT OF CLAIM

I wish to appeal the decision rendered
in the case of Mr. L.C. Bancroft--Track
Foreman, who was issued discipline in
the form of "Disqualification as Foreman
on C.A.T. Gangs."

* * *

I request the disqualification be rescin-
ded and the discipline be removed from Mr.
Bancrofts personal record.

OPINION OF THE BOARD

L.C. Bancroft, the Claimant, is employed by Carrier as
a Track Foreman. At the time of the incident that gave rise
to this case, he was assigned as Foreman of the Continuous
Action Tamper (CAT) in Flint, Michigan. He was directed to
surface two different tracks: the number one and the

number two pickup tracks. Carrier contends that Claimant was given written, as well as verbal, instructions to surface one track using the computer and one track manually, using the computer to only record. Claimant's force resurfaced both tracks, using the machine fully computerized. When Carrier officials learned that Claimant had surfaced both tracks using the computer, they charged him as follows:

You are hereby notified to attend a formal investigation to be held in the Pontiac Administration Building Conference Room on Monday, January 14, 1991 at 0900 hours, to determine your responsibility, if any, for failure to comply with written and verbal instructions issued concerning the surfacing method for #1 pickup track at Flint, Michigan, on December 18 and 19, 1990.

A hearing into the matter was held as scheduled. As a result of that hearing, Claimant was found guilty as charged and assessed discipline of "Disqualification as Foreman on C.A.T. Gangs."

This Board has reviewed the record, including the transcript of the hearing, in this matter. As a result of that review, we are compelled to conclude that considerable confusion existed in the work order, as finally conveyed to

Claimant. There is reason to believe that Claimant did not knowingly disregard the orders to surface only one track using the computer and that he was under the impression that he was following instructions. Carrier acted in an arbitrary and capricious manner in this instance. Even if one were to conclude that Claimant did knowingly disregard the orders of a Supervisor, as Carrier asserts, disqualification as a Foreman of a CAT Gang would not be an appropriate penalty.

This Board finds no evidence in the record that supports Carrier's action in this instance.

AWARD

The claim is sustained.

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

J.A. DeRoche
J.A. DeRoche,
Carrier Member

K.R. Mason
K.R. Mason,
Employee Member

Date of Adoption