

PUBLIC LAW BOARD NO. 3765

Parties  
to the  
Dispute

:  
: CONSOLIDATED RAIL SYSTEM FEDERATION :  
: BROTHERHOOD OF MAINTENANCE :  
: OF WAY EMPLOYES :  
:  
: vs. :  
:  
: GRAND TRUNK WESTERN :  
: RAILROAD COMPANY :  
:  
:

Case No. 59

STATEMENT OF CLAIM

We wish to appeal the decision rendered in the case of Mr. Daniel Petrous, Machine Operator who was issued discipline in the form of disqualification as a Machine Operator as a result of an investigation held January 27, 1992 at Pontiac, Michigan.

We request Mr. Petrous be paid for all time lost due to this disqualification from February 13, 1992 to the date he is returned to his position as a Machine Operator as he went to a furloughed status. Had he not been disqualified he would have continued working. We also request he receive all benefits he would have accrued (sic) had he not been disqualified.

OPINION OF THE BOARD

At the time of the incidents that gave rise to this arbitration, Claimant Daniel Petrous was employed by Carrier as a second class Machine Operator/Trackman. On Monday,

December 30, 1991, while Claimant was operating a Case.W-30 Loader, he was involved in a number of actions that caused Carrier to bring charges against him. He was charged with operating the loader in an unsafe manner, running over and breaking a gap valve, failure to properly lubricate and maintain his loader, and damaging a new pair of rail tongs. A hearing into the matter was held on January 27, 1992. As a result of that hearing, Claimant was found guilty of three of the four incidents. He was found not guilty of damaging the rail tongs. As a penalty for the improper operation of the loader, Claimant was disqualified as a Machine Operator.

This Board has reviewed the complete record of this case, including Claimant's past record of accidents while operating other railroad equipment. This Board can only conclude from that review that Carrier was within its right to disqualify Claimant from a Machine Operator position. This Board, however, is persuaded that Carrier has made its point with Claimant by a long period of disqualification and that Claimant is deserving of one last chance to become a productive Operator. The Board therefore directs that Claimant be reclassified (after proper testing)

as a Machine Operator. He shall be on notice that any further accidents or improper operation of machines can result in his being permanently disqualified as an Operator.

AWARD

The claim is sustained per the Findings with no pay for lost time or benefits.

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

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

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

January 6, 1994  
Date of Approval