

PUBLIC LAW BOARD NO. 7585

**Case No. 32/Award No. 32
Carrier File No.: 10-13-0397
Organization File No.: C-13-D040-23
Claimant: K. D. Summers**

BNSF RAILWAY COMPANY)
(former Burlington Northern Railroad Company))
)
-and-)
)
BROTHERHOOD OF MAINTENANCE)
OF WAY EMPLOYEES DIVISION - IBT)

FACTS:

On May 15, 2013, the Carrier issued the Claimant a Standard Formal Reprimand with a one-year review period for alleged failure to remain alert and attentive while backing up BNSF 21251 from an enclosed facility at the Havelock Section House on April 12, 2013, resulting in damage to the building.

CARRIER POSITION:

Roadmaster T. Applebee stated he was in his office doing paperwork when he heard a loud bang, ran out the door and saw Claimant in the driver's seat of a truck lodged against angle beams that had split in half. He asserted that the truck's front rail rack struck the beam. In his view, since Claimant knew the beam had been struck several times before, he should have been alert and attentive to the situation. Further, he was required to have a backup guide, but did not use one.

Brett Longsine testified by phone that when he saw Claimant getting ready to move his truck, he offered to provide backup guidance but Claimant declined his offer. He said that from where he would have stood, he might not have been able to see the front rail rack and probably not have been able to avert the impact.

ORGANIZATION POSITION:

Claimant testified he declined the offer of a backup assistance because he had a clear view of the back of the truck. You cannot see the rail rack from the driver's seat, he said; "I did not recall it was there." He claimed he was fully alert and attentive, but lost focus of where the beam was in relation to the rail rack. He said he inspected the area behind the truck and knew it to be clear. In the Organization's view, a backup guide would have done no good; "It was inevitable."

DECISION:

As the driver of the truck, Claimant was required to be alert and attentive so as to avoid accidents and damage to Carrier property. In this case, Claimant was relatively unfamiliar with the truck and its parking place, meaning it was his obligation to take notice and be observant of the area. Though he checked the back of the truck for obstacles, he was not adequately attentive to observe and take into account the beam angling down from the roof in relation to the configuration of the front rail rack. It was his obligation to take account of any and all obstacles that could impact his vehicle. Further, MWOR-12.8 requires a backup guide; it is not optional. The fact that a guide might not have been able to observe the front rail rack does not absolved Claimant from being in violation of this rule.

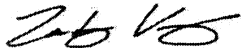
AWARD:

The claim is denied.

September 2, 2015



Patricia T. Bittel, Neutral Member



Zachary Voegel, Labor Member



D. J. Merrell, Carrier Member