

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 31

PARTIES: CSX TRANSPORTATION, INC.

TO :

DISPUTE: BROTHERHOOD OF MAINTENANC OF WAY EMPLOYEES

STATEMENT OF CLAIM: Suspension of C. S. Wood (ID# 155810) starting August 30, 1991, and ending September 16, 1991, as a result of an investigation held on September 16, 1991.

FINDINGS:

Claimant C. S. Wood was employed by the Carrier as a machine operator.

On August 30, 1991, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charges:

On Tuesday, August 20, 1991, while in the process of testing the safety switch on the locomotive crane boom you are the assigned operator of, it exceeded a safe operating radius. This caused the machine to overboom and destroy the heel section of the boom.

You are hereby charged with negligence in the operation of this crane . . .

After one postponement, the hearing took place on September 16, 1991. On September 26, 1991, the Carrier notified the Claimant that he had been found guilty of all charges and that the time period that the Claimant was held out of service, August 30 through September 16, 1991, would be deemed his discipline.

The parties being unable to resolve the issues, this matter came before this Board.

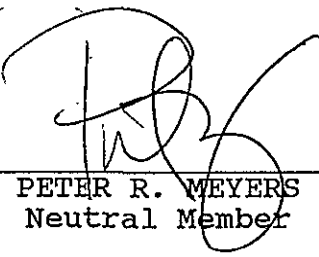
This Board has reviewed the evidence and testimony in this

case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of negligence in the operation of his crane on August 20, 1991. The record reveals that the Claimant did not take the appropriate precautions when raising the boom. The Claimant's argument that he was unable to see properly because of dirty windows and other problems reinforces the fact that he did not take the appropriate actions when performing his job that day. If things were not operating properly or windows were dirty, he should have called that to the attention of the authorities prior to raising the boom. Since he did not, it was appropriate for the Carrier to find that he was negligent.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious. In this case, the Claimant received a ten-day suspension for his wrongdoing. Given the nature of the offense, this Board cannot find that the Carrier acted unreasonably when it issued the ten-day suspension to him. Therefore the claim will be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____