

AUG 13 1 14 PM '90

ADJUDICATING BOARD

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: CSX Transportation, Inc.

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

Thirty day suspension assessed M. D. Cupp, ID# 168297 as a result of investigation held October 27, 1989, at Greenville, South Carolina."

FINDINGS:

On September 14, 1989, Claimant was instructed to attend a formal investigation:

to develop the facts and place your responsibility, if any, in connection with the collision of Train A755 and a Bruschcutler at approximately 12 noon, Thursday, September 7, 1989, Turman Road crossing near Mile Post AKL 59, Piedmont Subdivision and all circumstances related thereto.

A formal hearing was held on October 27, 1989, and as a result, Claimant was assessed a 30 calendar day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging his suspension.

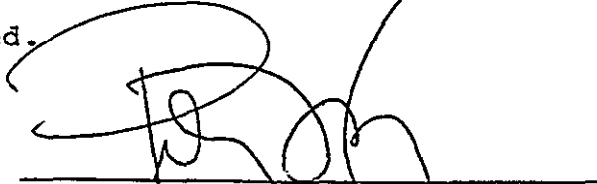
This Board has reviewed the evidence and testimony in this case and we must find that there is not sufficient evidence in the record to support the finding that the Claimant was guilty of any wrongdoing in this case.

There is no question that a serious accident occurred and that the Claimant was working in that area and had responsibility for the proper performance of his duties. However, the Carrier bears the burden of proof and there is not enough evidence in the record before this Board that indicates that the Claimant was responsible for

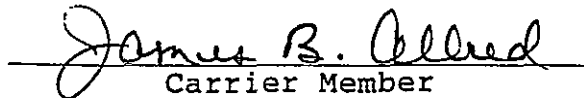
that collision. Therefore, the Carrier had no just cause to issue discipline to him. Hence, the claim must be sustained.

Award:

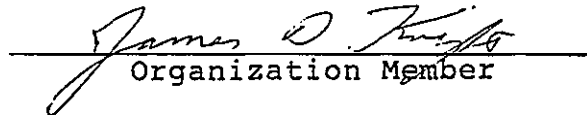
Claim sustained.



Neutral Member



Carrier Member



Organization Member

Date: July 30, 1990