

AWARD NO. 222
CASE NO. 309

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

AWARD

STATEMENT OF CLAIM:

"1. Carrier violated the effective Agreement when South of Texarkana Machine Operator J. A. Jenkins was unjustly dismissed from service.

2. Claimant Jenkins shall now be reinstated and paid for all time lost beginning June 19, 1986 and on a continuing basis, with seniority, vacation and all other benefits due him account his unjust dismissal." (MW-86-39-CB-Jenkins; 53-941)

OPINION OF BOARD:

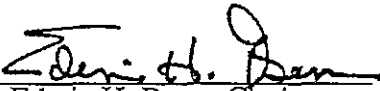
Claimant, an employee in service with the Carrier since 1973, was assigned to a ballast regulator which was struck by a train on June 19, 1986 causing approximately \$40,000 in damage while Claimant was occupying the Neyland DTC Block. On June 23, 1986, Claimant was charged with violating Rules 268 and 5071 and was withheld from service. After investigation eventually held on July 31, 1986, and by letter dated August 11, 1986, Claimant was dismissed from service.


The record demonstrates (and as admitted by Claimant), that Claimant had no authority to be in the Neyland Block at the time the accident occurred. Claimant's authority was limited to the adjacent Greenville Block. Under the circumstances, we are of the opinion that the record supports the Carrier's decision to impose discipline. Claimant failed to comply with Rules 268 and 5071 concerning authority to occupy blocks and having the line up of trains.

However, we do not believe that dismissal was warranted in this case and we find the same to be excessive. Although Claimant was clearly culpable by being in the wrong block, there is evidence in the record suggesting that Claimant was otherwise a good employee. Indeed, the Roadmaster involved testified that he felt that Claimant should have another chance. Nevertheless, Claimant's culpability and the extent of the damage cannot be ignored. We shall therefore treat the time off as a suspension and require that Claimant be returned to service with seniority and other benefits unimpaired but without compensation for time lost.

AWARD:

Claim sustained in accordance with Opinion. Claimant shall be returned to service with seniority and other benefits unimpaired but without compensation for time lost.


Edwin H. Benn, Chairman
and Neutral Member


R. O. Naylor
Carrier Member


S. A. Hammons, Jr.
Organization Member

Tyler, Texas
July 20, 1987