

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 125
Docket No. 133
CNW File: 81-87-21

PARTIES: Brotherhood of Maintenance of Way Employees
TO :

DISPUTE: Chicago and North Western Transportation Company

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

- (1) The disqualification of Machine Operator D.L. Hussman was discriminatory, excessive and capricious (Organization File 4LF-2141 D; Carrier File 81-87-21).
- (2) The Claimant shall now be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employees and the Carrier involved are respectively employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

On August 14, 1986, Claimant was working as a machine operator on a ballast regulator machine with a surfacing gang working on track near Grand Junction, Iowa. On that date, Claimant was responsible for communicating with and clearing trains using the tracks on which the gang was working. Claimant subsequently was directed to attend a formal investigation of the charge:

Your failure to properly clear Extra 5091 East on Form Y Train Order No. 127 Line 2 on August 14, 1986 at approximately 9:40 a.m. at Grand Junction, Iowa.

The investigation was held as scheduled, and a copy of the transcript has been made a part of the record. We find that the investigation was conducted in a fair and impartial manner.


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 making a serious mistake

in clearing an eastbound train by confusing east and west while operating the radio. Fortunately, another employee of the Carrier was monitoring the radio and was able to stop what could have been a serious accident.

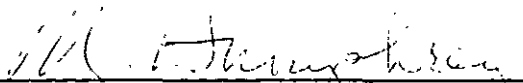
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. The record is clear that the duty of the machine operator to handle communications with oncoming trains and to properly clear them is one of the most essential functions for the safe operation of a maintenance of way gang. Therefore, this Board cannot find that it was unreasonable, arbitrary, or capricious for the Carrier to disqualify the Claimant from the position of machine operator.

Award:


Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 2/3/89