

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924
Award No. 135
Docket No. 144

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :
DISPUTE: CHICAGO & NORTH WESTERN TRANSPORTATION CO.

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

1. The disqualification as Common Machine Operator assessed F. J. Perkovich was unjust and excessive and on the basis of unsupported charges. (Organization File 4SW-1243 D; Carrier File 81-88-34).
2. Claimant Perkovich shall be allowed the remedy as prescribed in Rule 19(d):

"If the charge against the employe is not sustained it shall be stricken from the record. If the employe has been removed from position held, reinstatement will be made with all rights unimpaired and payment allowed for the assigned working hours actually lost while out of service of the Company, at not less than the rate of pay of position formerly held, less earnings in outside employment, for the difference in rate of pay earned, if in the service. An employe who has earnings from outside employment must deduct from those earnings actual necessary expenses in securing and performing work."

FINDINGS:

Claimant F. J. Perkovich was employed by Carrier as a Jimbo Operator. On November 16, 1987, Claimant was loading scrap ties when the boom of the Jimbo Machine he was operating struck a signal wire. Subsequently, Claimant was charged with:

"Your failure to properly perform your duties when Jimbo Machine struck overhead power lines at MP74.0."

An investigation was held on December 18, 1987, and as a result Claimant was disqualified as a Common Machine Operator. The Organization thereafter filed a claim on Claimant's behalf, challenging his disqualification.

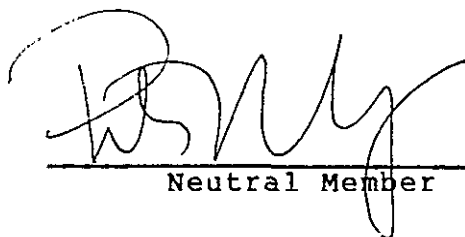
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to properly perform his duties on November 16, 1987. This Board has found on occasions in the past that making contact with overhead wires while operating a crane is a very serious matter and deserving of discipline.

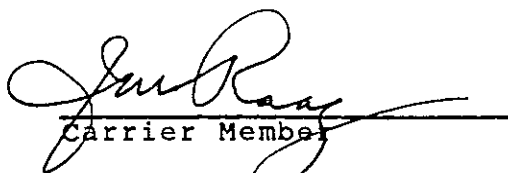
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find it to have been unreasonable, arbitrary or capricious.

The Carrier in this case has chosen to disqualify the Claimant from his position as Common Machine Operator for his wrongdoing in this case. This Board cannot find that the Carrier acted unreasonably when it imposed that discipline. Therefore, the claim must be denied.

AWARD

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: NOV 28 1988