

SPECIAL BOARD OF ADJUSTMENT NO. 624

Award No. 25
Docket No. 29

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 twenty five (25) day suspension (activating a deferred five (5) day suspension) assessed Machine Operator D. A. Bockman was without just and sufficient cause, arbitrary and excessive. (Organization File 4D-3722; Carrier File 81-83-130-D)
- (2) Machine Operator D. A. Bockman shall have his record cleared of this incident and be compensated for all wage loss suffered."

FINDINGS:

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

On April 7, 1983, claimant was assigned as a Crane Operator at Boone, Iowa. About 1:25 P.M., while operating a Burro 40 crane, and making a reverse movement, the boom of the crane struck a telephone wire and knocked it down. On April 11, 1983, claimant was notified to appear for a formal investigation scheduled for 2:00 P.M., April 15, 1983, on the charge:

"Your responsibility in connection with incident when boom of crane, System No. 17-2361, you were operating caught telephone wire and knocked down same at Boone Yard at approximately 1:25 p.m. on April 7, 1983."

The record shows that the investigation was postponed at the request of the claimant and was conducted commencing at 2:06 P.M., April 26, 1981. A copy of the transcript of the investigation has been made a part of the record. There is no proper basis for the objection raised in the investigation of the timeliness of the notice of postponement. We find that none of claimant's substantive procedural rights was violated in the manner in which the investigation was conducted or in the course of appeal.

Rule 1106 of Carrier's Rules of the Engineering Department reads:

"In handling cranes or pile drivers, or doing work likely to interfere with overhead wires or other obstructions, every precaution must be taken to prevent damage."

Claimant was operating the crane in reverse movement. During the hearing he stated that he could have turned the crane around and operated it in a forward position; that if the crane had been operated in a forward position, the boom would probably have been in lower position. He also stated that he did not do everything that he could to avoid hitting the telephone wire.

Following the investigation, claimant was assessed discipline of twenty-five days actual suspension for the offense here involved, which activated a previously assessed 5-day deferred suspension.

We find no proper basis for the Board to interfere with the discipline imposed.

A W A R D

Claim denied.

Paul C. Carter

Chairman, Neutral Member

John H. Crawford
Carrier Member

H. G. Harper
Labor Member

Dated: Sept. 17, 1984