

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 73
Docket No. 82

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 from the position of tie crane operator assessed Machine Operator M.J. Walker was without just and sufficient cause and on the basis of an unproven charge. [Organization File 4D-4640; Carrier File 81-84-226]
- (2) Machine Operator M.J. Walker shall 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 June 19, 1984, Claimant was operating a tie crane to load ties into a dumpster. At approximately 4:10 p.m., the Manager of Maintenance Planning observed Claimant operating the crane while Trackman Davis rode on the crane's tool box. Claimant subsequently was directed to appear at a formal investigation of the charge:

Your responsibility in connection with incident which occurred on June 19, 1984 at approximately 4:10 P.M. at Newburg, Iowa when Mr. Davis was riding on tool box of tie crane, system machine No. 17-2435 immediately adjacent to boom while Mr. Walker was picking up ties and placing them in tie butt dumpster.

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.

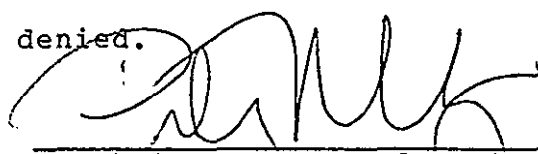
This Board has reviewed the evidence and testimony in

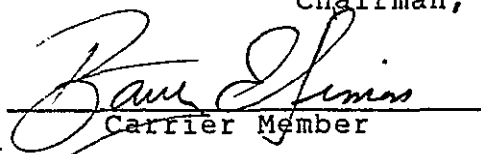
this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of a safety violation by allowing a trackman to ride on the crane in violation of the Carrier's rules. This Board rejects the Organization's claim that the employee was charged with one violation and disciplined for another. The record is clear that the Claimant was charged with allowing an employee to work in an unsafe manner, and he was found guilty of that same violation.

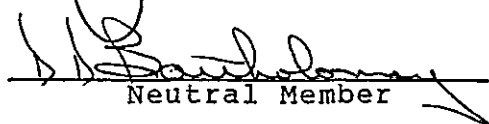
Once this Board determines that a Claimant was properly found guilty, we must then turn our attention to the type of discipline imposed. This Board will normally not second-guess a Carrier in the imposition of discipline. In the case at hand, the record demonstrates a number of reprimands, injuries, and safety reminders throughout the Claimant's employment. Hence, it was not unreasonable, arbitrary, or capricious for the Carrier to disqualify the Claimant from his position.

AWARD:

Claim denied.


Chairman, Neutral Member


Carrier Member


Neutral Member

Date: October 6, 1986