

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 89  
Docket No. 99

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 fifteen (15) day deferred suspension assessed Track Supervisor C.A. Reagan, Jr., for his alleged failure to detect an F.R.A. track defect is unwarranted and capricious.  
[Organization File 3D-4933; Carrier File 81-85-67-D]
- (2) Track Supervisor Reagan shall have the discipline removed from his personal record in accordance with Rule 19(d) of the effective Agreement."

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 September 18, 1984, Claimant was inspecting track on the St. Louis Subdivision. Carrier's Roadmaster, following Claimant on the track, detected a broken angle bar, which Claimant then repaired. Claimant subsequently was directed to attend a formal investigation of the charge:

Your responsibility for failure to detect FRA Track Defect 121.03 cracked or broken (center break) joint bar at MP 7.0 on the St. Louis Subdivision when you were working as Track Supervisor on September 18, 1984.

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.

The Organization argues that Carrier arbitrarily and capriciously disciplined Claimant for missing a single hairline crack in a single

bar. The Organization points out that there are about 5,000 joints within Claimant's territory; Claimant cannot stop to look at each low and battered joint if he is to cover his assigned territory within the assigned time. The Organization therefore contends that the claim should be sustained.

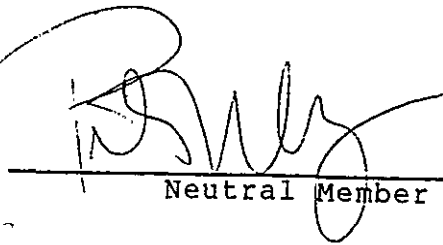
The Carrier asserts that the charge against Claimant was proven, and the assessed discipline was warranted. The transcript establishes that the defect was readily observable; Carrier contends that Claimant should have been alerted to a possible defect when he saw the low and battered joint. Carrier points out that this was sufficient for the roadmaster to find the crack; Claimant should have found it. Carrier therefore argues that the claim should be denied in its entirety.

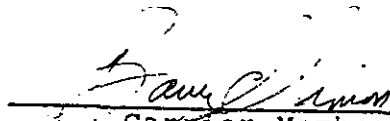
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offense with which he was charged.

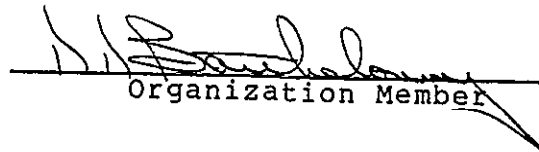
Once this Board has determined that there is sufficient evidence in the record to support a guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find it to be unreasonable, arbitrary, or capricious. In this case, the Claimant received a 15-day deferred suspension for failing to detect a broken angle bar. That type of discipline is not unreasonable under the circumstances. Hence, the claim must be denied.

Award:

Claim denied.

  
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Neutral Member

  
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Carrier Member

  
\_\_\_\_\_  
Organization Member

Date: October 22, 1987