

Award No. 11
Case No. (NONE GIVEN)

Special Board of Adjustment No. 956

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
New Jersey Transit Rail Operation, Inc.

STATEMENT
OF
CLAIM:

The suspension of Casual Driver J. Reed was arbitrary, excessive and without just cause. His record should be cleared of the November 14, 1983 charge and he should be compensated for all wages, including over-time, he lost as a result of the suspension and all other rights must be unimpaired.

FINDINGS:

Claimant was suspended for 30 days for violation of Safety Rule 3260. That Rule prescribes that power-operated equipment may be operated only by qualified and authorized employees.

A casual truck driver with about ten years service, claimant was called upon by Supervisor Strano on the morning in question to operate crane RCB-4149. He had never operated a crane of that type before and, as Mr. Strano was aware, did not possess the MW 200 card that would show whether he was duly qualified. Assistant Supervisor Kears, who Mr. Strano knew was not qualified on the crane, was assigned to be with claimant and direct the operation.

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While operating the crane, claimant heard the whistle of an approaching train and pulled the lever to straighten up the crane; it went the wrong way and struck the train. A serious accident could have occurred, but fortunately there were no injuries.

Claimant was suspended on the ground that he should have declined to accept the assignment on safety grounds.

In these circumstances, no valid basis exists for depriving this employee, who has an unblemished record of ten years service, of earnings. At the most the record provides no basis for more than a reprimand to claimant.

AWARD: Suspension reduced to a reprimand. Claim sustained to all other respects. To be effective within 30 days.

Adopted at Newark, N.J., January 28 1985.


Harold M. Weston, Chairman


Carrier Member


Employee Member