

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 62

Docket No. NEC-BMWE-SD-1815

PARTIES: Brotherhood of Maintenance of Way Employes

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

On January 20, 1987, Claimant M. Shindlecker was employed by Carrier as a welder in a gang headquartered at Odenton MW Base in Odenton, Maryland. On January 27, 1987, Claimant was directed to attend an investigation of the charge:

Violation of Amtrak's Maintenance of Way Employees Safety Rules and Instructions, Rule 4258 "C", which reads in part: "In handling material or other objects to or from pile, (c) place instead of -throwing, unless provisions has [sic] been made to do so safely."

Specification: In that on January 20, 1987, in the vicinity of the Odenton MW Base, at approximately 11:45 P.M., at which time you were removing tools from Welding Truck NJ 31486, by throwing them from the back of the truck to the dock, causing an injury to Mr. Ronald S. Miller.

After two postponements, the hearing took place on March 3, 1987; as a result, Claimant received a five-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.


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 violating Safety Rule 4258 "C" when he threw tools from the back of a truck to a dock, causing injury to a fellow employee.

Once this Board has determined that there was 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 be

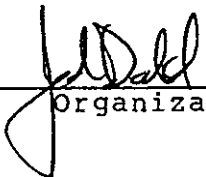
unreasonable, arbitrary, or capricious. In the case at hand, the Claimant received a five-day suspension. Given the nature of the charge against the Claimant and his previous discipline, we cannot find the five-day suspension to have been unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

Award:

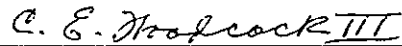
Claim denied.



Neutral Member



Organization Member



Carrier Member

Date: 8-18-88