

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 74

Docket No. NEC-BMWE-SD-1986D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant J.L. Carrington was employed as a foreman by the Carrier at its Odenton, Maryland, facility. On August 12, 1987, Claimant was directed to attend a hearing in connection with the following charges:

1. You are in violation of Rule 4204(B) of Amtrak Safety Rules which reads in part[:] maintain constant look out in the direction in which moving, particularly on curve, at switch, frog, crossing or intersection for obstruction or other equipment or machinery shall be headed in the direction in which moving, if practicable, otherwise, make arrangements that will assure constant look out being maintained in the direction in which moving.

Specifications: In that on Monday, August 10, 1987, at approximately 12:30 a.m. in the vicinity of MP 113.9 Long siding, you being foreman of the Burro Crane #A58803, is [sic] responsible for maintaining a constant look out in the direction in which moving; also in seeing that the equipment being operated is facing the direction moving, if practicable and thus, is [sic] to be held directly responsible for the derailment of the Burro Crane #8803 occurring in the vicinity of MP 113.9 on Long siding, at approximately 12:30 a.m. on August 10, 1987.

2. You are in violation of Rule #910, Paragraph #4 of the Amtrak Operating Rules and Instructions, which reads in part[:] Track Foremen are responsible for safety instruction and safe performance of all employees under their jurisdiction. They are responsible for the care and proper use of tools, material, and equipment.

Specifications: In that on Monday, August 10, 1987, at approximately 12:30 a.m. in the vicinity of MP 113.9 Long siding, you being the foreman in charge of the Burro Crane are in charge of safe movement as specified in the above rule.

The hearing took place on October 12, 1987, and as a result, Claimant was assessed a twenty-day suspension and was disqualified as a foreman for six months. The Organization thereafter filed a claim on Claimant's behalf, challenging the discipline.

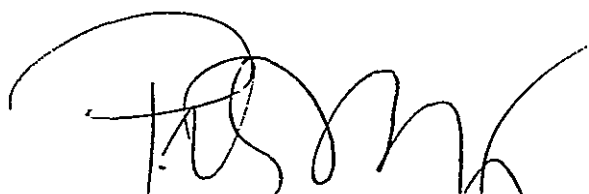
This Board has reviewed the evidence and testimony in this case,

and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of not properly performing his duties as foreman in charge of movement of the Burro Crane. Therefore, the Carrier was within its rights to issue discipline to the Claimant.

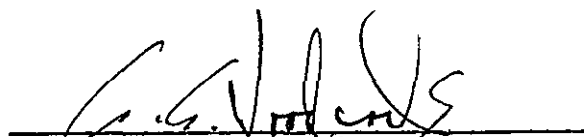
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find the action taken by the carrier to have been unreasonable, arbitrary, and capricious. In the case at hand, the Claimant received a 20-day suspension and was disqualified as foreman for six months. Given the nature of the charge and the previous service record of the Claimant, including two disciplines within the two-month period prior to this incident, this Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the claim must be denied.

Award:

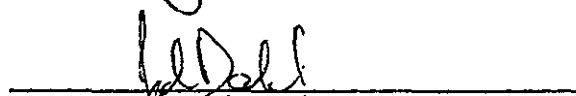
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 11-16-88