

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 75

Docket No. NEC-BMWE-SD-1990D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant D. Harris was employed as a work equipment engineer by 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 the operator 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 #104, Paragraph #4 of the Amtrak Operating Rules and Instructions, which reads in part, Employees must be familiar with locations of derails, engines or cars must not pass over derails in derailing position. Derails must be kept in derailing position except when removed to permit movement.

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The hearing took place on October 12, 1987, and as a result, Claimant

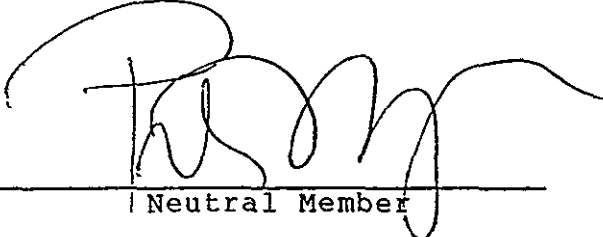
was assessed a twenty-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the discipline.


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 the offense of failing to act properly to avoid the derailment of the Burro Crane on the date in question. The Carrier was well within its rights to issue discipline to the Claimant.

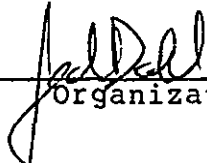
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find it to have been unreasonable, arbitrary, or capricious. In the case at hand, given the record of the Claimant and the nature of the offense, this Board finds nothing unreasonable about the 20-day suspension issued to the Claimant. Therefore, the claim must be denied.

Award:

Claim denied.

  
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Neutral Member

  
\_\_\_\_\_  
Carrier Member

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

Date: 11-16-88