

SPECIAL BOARD OF ADJUSTMENT

NO. 997

CONSOLIDATED RAIL CORPORATION

-VS-

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DOCKET NO. CRE-17658-D
CASE NO. 70

CLAIMANT: N.A. Canter

FOR THE CARRIER: Jeffery H. Burton, Director
Labor Relations

FOR THE ORGANIZATION: Robert Godwin, General Chairman
BLE

NEUTRAL: Dr. James R. McDonnell

STATEMENT OF CLAIMS

"Appeal of Engineer N.A. Canter from the discipline of 30-days actual suspension assessed as a result of the following:

OUTLINE OF OFFENSE: In connection with your alleged extreme negligence in that you failed to properly protect your movement in Selkirk Yard on the North Runner while working YASE-40, Engine 6914, on December 19, 1992 at approximately 12:20 p.m., which resulted in a collision between the CR 6914 and GATX 2005 which resulted in personal injury and equipment damage."

FINDINGS

The Board, upon the whole record and all evidence finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended ("RLA"); that this Board is duly constituted by agreement and has jurisdiction of the parties, claim and subject matter which was held on December 20, 1994 in Philadelphia, Pennsylvania. The Board makes the following additional findings.

DISCUSSION

The Claimant's date of hire is July 18, 1967.

The facts are not in dispute in the instant claim. Those facts are stated in the Carrier's brief:

On December 19, 1992, the Appellant was the Engineer on yard assignment YASE-40. At approximately 12:20 p.m., while traveling east on the North Runner in Selkirk Yard, he proceeded through the Local Yard switch which was not aligned for his movement, but for movement into the Local Yard. Just prior to reaching the switch connecting Track No. 9 and Track No. 10 in the Local Yard on the lead track, the Appellant's engine, CR 6914, collided with D&H Engine 2005, which had been derailed earlier by a D&H crew working in the Local Yard.

OPINION

The Board finds that the Claimant was guilty of not restricting his speed to at least, slow-slow, when he lost vision as he rounded the curve. NORAC makes clear that the Engineer must be "Prepared to stop within one half the range of vision-short of a train..." Claimant could not have spotted his train within this requirement since he was traveling at a speed of 10 mph.

But, the Board is also troubled by the lack of care and concern exhibited by the D&H crew. They had just derailed and yet they sat on their engine oblivious to any possible danger. At least they could have placed a flagman in such a position as to protect against a train coming around the curve towards them.

Moreover, the Yardmaster did not notify Claimant or any other train in the area that there had been a derailment in the yard.

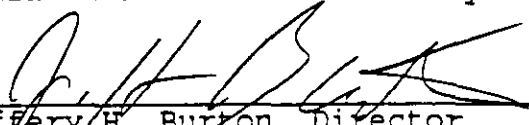
The D&H crew had left the switch open which connected the local yard to the North Runner, but no one told the Claimant about this.

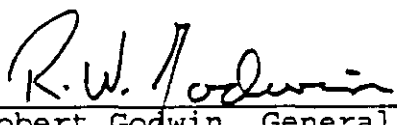
And it must be noted that Claimant was operating alone in his engine.

Of course, the Claimant should have come to slow-slow or better yet a stop when he lost sight of the track ahead. He did not and must be held responsible for that failure. But the Board finds that there are sufficient extenuating circumstances here to amend and reduce his discipline.

AWARD

The 30 day suspension shall be reduced to a 15 day suspension.


Jeffery H. Burton, Director
Labor Relations


Robert Godwin, General Chairman
BLE


Dr. James R. McDonnell
Neutral

August 17, 1995
Date

jdm