

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 30

PARTIES: CSX TRANSPORTATION, INC.

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Suspension of G. A. Black (ID# 175750) starting April 6, 1992, and six month suspension from working on any "boomed" equipment, result of investigation held on April 9, 1992.

FINDINGS:

Claimant G. A. Black was employed by the Carrier as a Group A machine operator.

On April 3, 1992, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charges:

On Thursday, April 2, 1992, while you were operating burro crane BC21 at Okeechobee, Florida, you allowed the machine's boom to strike live overhead electric wires knocking them down and causing personal injury to yourself.

You are hereby charged with CSX Safety Rule No. 366 parts A & H . . .

You are being held out of service effective immediately pending the outcome of this investigation.

The hearing took place on April 9, 1992. On April 28, 1992, the Carrier notified the Claimant that he had been found guilty of the charges against him and was being assessed discipline of a thirty-day actual suspension starting April 6, 1992; and, in conjunction with that suspension, Claimant would not be allowed

to bid or work on any boomed equipment for six months from the end of his suspension. The Claimant was also ordered to attend a Safety Skill Seminar class on the Atlanta Division to improve his knowledge on boomed equipment during his six-month suspension from working the boomed equipment.

Thereafter, the Organization filed a claim on the Claimant's behalf, challenging his 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 failing to properly perform his duty when operating the burro crane on the date in question.

The record reveals that the Claimant admitted at the hearing that he could have done a better job and that he was not able to see while he was operating the burro crane. Although he tries to attach some blame to other people and the type of equipment that he was operating, as well as the conditions that he was operating under, it becomes clear, as one reviews the transcript, that the Claimant was the person who was responsible for the accident that resulted in an injury to himself, damage to property, and possible injury to a fellow employee.

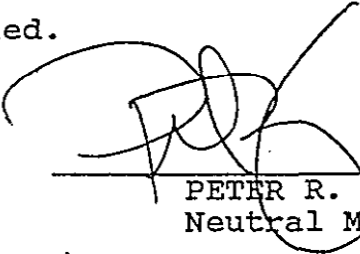
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

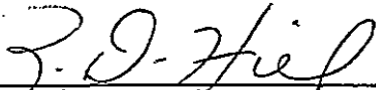
In the case at hand, the Claimant received a thirty-day suspension and a six-month suspension from the use of any boomed equipment. He was also ordered to attend a Safety Skill Seminar to improve his knowledge on boomed equipment.

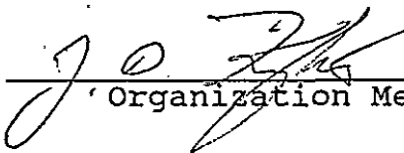
Given the nature of the wrongdoing in this case, this Board cannot find that the action taken by the Carrier was without just cause. Hopefully, as a result of the actual suspension and the disqualification from boomed equipment, the Claimant will learn that he must properly perform when operating that equipment and he will never move it unless he can actually see where he is going and what trouble might lurk ahead.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Date: September 8, 1992