

SPECIAL BOARD OF ADJUSTMENT NO. 280

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) ST. LOUIS SOUTHWESTERN RAILWAY COMPANY**

STATEMENT OF CLAIM

1. The thirty (30) days' suspension imposed upon Machine Operator J. F. Bribiesca for alleged violation of Rules 607, I and Rule 3 of the Rules and Regulations for Safe Operations was without just and sufficient cause, and on the basis of unproven charges and in violation of the Agreement (System File MW-87-58-CB/465-10-A).
2. The Claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD

As a result of charges dated July 23, 1987, investigation eventually held on August 20, 1987 and by letter dated August 28, 1987, Claimant was suspended for 30 days.

This discipline arose out of the same accident that resulted in Claimant's being tested for drugs and ultimately dismissed for violation of Rule G as discussed in Award 231 of this Board. Specifically, the suspension in this matter was imposed for Claimant's involvement in the accident wherein the boom of his crane struck a power line crossing above the track.

Rule 607 prohibits careless or negligent conduct. Rule I requires employees to exercise care and be alert and attentive. Rule 3 discusses the mandates of warning signs on equipment that equipment like that used by Claimant should not be operated within 10 feet of high voltage lines.

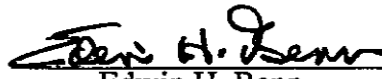
We find substantial evidence supports the Carrier's conclusion that Claimant violated the rules as charged. Even though Claimant did not have complete control of the movement of the work train and, giving the Organization the benefit of the doubt, may not

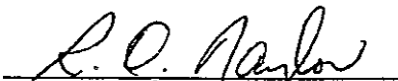
have been solely responsible for the accident, substantial evidence supports the Carrier's action. The record establishes that Claimant was aware of the safety mandates and given the conditions that faced him, Claimant nevertheless failed to operate his crane in a safe manner taking reasonable care to avoid the kind of accident that occurred.


In light of the circumstances, the discipline imposed was neither arbitrary, capricious or excessive.

AWARD

Claim denied.


Edwin H. Benn
Neutral Member


R. O. Naylor
Carrier Member


S. A. Hammons, Jr.
Organization Member

Houston, Texas
June 11, 1990