

SPECIAL BOARD OF ADJUSTMENT NO. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier's dismissal of Section Foreman Eldred V. Ludwig, Dalton, effective February 23, 1966, was too severe and the penalty excessive.
2. The Carrier shall now reduce the discipline assessed Claimant Section Foreman Ludwig, from dismissal to demotion with loss of time, and shall restore him to active service in the Track Department.

FINDINGS: Claimant, a track foreman with 36 years of service, was dismissed by Carrier for his part in an extremely serious accident.

At the time in question, Claimant was working with his crew on tracks just east of Canaseraga, New York, when a freight train struck his men, killing one and seriously injuring another. Because of a curve and a high bank at that location, visibility along the tracks was limited to a few rail lengths. Claimant had been looking out for trains but at the critical time was assisting his men to raise a frozen joint. We find no basis for disturbing Carrier's findings since there is credible supporting evidence that Claimant should have been watching for approaching trains but failed to do so and that his omissions in that regard and in not obtaining lineups contributed to the accident.

The extreme degree of discipline meted out to Claimant is a source of considerable concern to this Board. Certainly, Claimant's service of 36 years for Carrier, his prior good record and his employment age are factors that must be accorded heavy weight. We strongly urge Carrier to review Claimant's situation in the light of the above factors and, if possible, reinstate him to its service, if only to a non-supervisory position.

LWARD: Claim denied subject to the above recommendation.

Dated at New York, N. Y., this 29th day of October 1968.

/s/Harold M. Weston
HAROLD M. WESTON, NEUTRAL

/s/L. J. Cunningham
ORGANIZATION MEMBER

/s/R. L. Carroll
CARRIER MEMBER