

SPECIAL BOARD OF ADJUSTMENT NO. 541
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
AND
ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier improperly assessed discipline of thirty (30) days actual suspension to Acting Section Foreman T. J. Kamppi, account of his alleged responsibility in connection with Electromatic Tamper Machine being struck by freight train No. 38 on October 6, 1966.

2. Acting Section Foreman T. J. Kamppi be now reimbursed for his loss of all working days, plus two (2) holidays lost by him because of this thirty (30) day suspension, referred to above; and that his record be cleared of all charges.

FINDINGS:

Claimant, an acting track foreman, was in charge of a tamper when it was struck and substantially damaged by Train No. 38. After a hearing had been held in the matter, Claimant was suspended for thirty days for his responsibility for the accident.

The record establishes that Claimant duly requested the proper Tower operator for a line-up but was not given one. It further shows that he correctly posted and instructed his flagman and that he made arrangements for full flag protection during the time that his machine was on the track. The record also indicates that the engineer of Train No. 38 violated the restricted speed rules at the time in question.

We find no substantial evidence that Claimant committed the operating rules infractions charged by Carrier or that any negligence on his part caused the accident. The claim accordingly will be sustained.

AWARD:

Claim sustained.

Adopted at New York, N. Y., August 13, 1969.

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

/s/ A. J. Cunningham
ORGANIZATION MEMBER

/s/ R. A. Carroll
CARRIER MEMBER