SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 119
Docket No. 127

PARTIES: Brotherhood of Maintenance of Way Employes
TO :
DISPUTE: Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The discipline assessed Track Inspector J.F. Corrigan for his alleged failure to properly protect against trains on January 25, 1987, was without just and sufficient cause and on the basis of an unproven charge. [Organization File 3KB-4262 D; Carrier File 81-87-86]

(2) Track Inspector J.F. Corrigan shall be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employees and the Carrier involved are respectively employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

On January 25, 1987, Claimant was assigned to inspect track on the Belvidere Subdivision. While performing his duties near Huntley, Illinois, Claimant saw headlights from a train on the same track, then contacted the train crew to notify them that his truck was on the track. The train crew stopped the train about one-half mile from where Claimant set his truck off the track. Claimant subsequently was directed to attend a formal investigation of the charge:

> Your failure to properly protect against trains in the vicinity of Huntley, Illinois on Sunday, January 25, 1987.

The investigation was held as scheduled, and a copy of the transcript has been made a part of the record. We find that the investigation was conducted in a fair and impartial manner.

The Claimant was initially dismissed following the hearing. The

dismissal was later reduced to a lengthy suspension that ended on August 25, 1987, when the Carrier offered the Claimant an unconditional reinstatement.

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 protect against trains while inspecting track on January 25, 1987.

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 it to have been unreasonable, arbitrary, or capricious. In this case, although the Claimant has over 12 years of service, he has compiled a disciplinary record, including 5 suspensions and several letters of reprimand. Therefore, this Board cannot find that it was unreasonable for the Carrier to impose the suspension. The claim will be denied.

Award:

Claim denied.

Neutral Member

Carrier Member

Organization Member

Date: Sept. 23, 1988