

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY

Case No. 183

Award No. 145

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

1. The discipline, a ten (10) day suspension and disqualification as a common machine operator, assessed Mr. C. D. Hawley was without just and sufficient cause, capricious and unsupported (Organization File 8KB-4548D; Carrier File 81-80-42).
2. Claimant D. H. Hawley shall be compensated for all lost wages, shall have his common machine operator rights restored and shall have this discipline removed from his personal record.

FINDINGS:

Claimant D. H. Hawley, a machine operator for the Carrier, was charged as follows:

Your responsibility for your actions when (1) you were operating a Burro Crane on December 6, 1989 at St. Francis, Wisconsin, when you made a swing and the rail tong struck the windshield of a company truck causing same to brake and (2) you were operating a Burro Crane on December 8, 1989 at Belgium, Wisconsin, and you ran over a derail and derailed the crane.

After a hearing regarding the above charges, Claimant Hawley was suspended for ten days and disqualified as a common machine operator. The Carrier contended that the Claimant's testimony relative to the December 6 incident contradicted the Roadmaster's testimony that the vehicle that the Claimant struck was on the side of his boom.

As to the December 8 incident, the Carrier contended

that the Claimant testified that he did not test whether or not the air was turned on in the flatcar's brake system.

The parties being unable to resolve the issues, this matter came before this Board.

This Board has reviewed the record and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was responsible for the two accidents occurring on December 6 and 8, 1989. Therefore, the claim will be denied.

The record reveals that on December 6, 1989, the Claimant was operating a Burro Crane and had been instructed to change the configuration of the crane from magnet to rail tongs. After the Claimant made the change, he swung the crane around striking the windshield of a parked company vehicle with the rail tongs, destroying the windshield of the vehicle.

The record also contains evidence that on December 8, 1989, the Claimant, while operating the Burro Crane, ran over a derail, derailing the piece of equipment that he was operating. The record is clear that the brakes on the flat car were in working order, but had not been cut in. The Claimant had not inspected the flat car to ensure that the brakes were cut in.

It is evident that the Claimant was responsible for the two accidents in question.

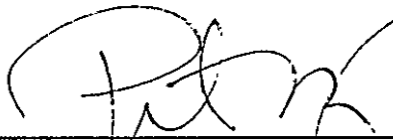
Once this Board has determined that there is sufficient

evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed.

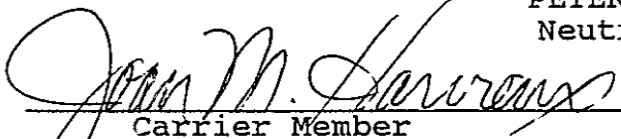
In the case at hand, the Claimant was issued a ten-day suspension and disqualification as a common machine operator. Given the seriousness of the two accidents and the fact that the Claimant had previously received a five-day suspension, this Board cannot find that the Carrier acted unreasonably when it issued a ten-day suspension for these two incidents. Therefore, the claim will be denied.

AWARD:

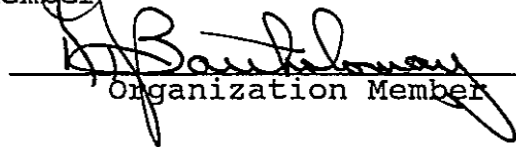
Claim denied.



PETER R. MEYERS
Neutral Member



Joan M. Harvance
Carrier Member



H. Bantelmay
Organization Member

Dated: May 10, 1993