

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
NORTHEAST CORRIDOR

Case No. 143

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

The two-week suspension and six-month
foreman/operator disqualification assessed
Claimants William Roche (foreman) and Jorge Negrete
(machine operator) was unwarranted.

FINDINGS:

Claimant William Roche was employed by the Carrier as a
foreman at its Chicago District/Midwest Division; Claimant Jorge
Negrete was employed by the Carrier as a machine operator at the
same location.

On July 31, 1990, the Carrier notified the Claimants to
appear for a formal investigation in connection with the
following charges, Claimant Roche being the foreman and pilot of
speed swing and Claimant Negrete being the operator of speed
swing:

Charge I. Alleged failure to comply with the AMT-
1, NORAC Operating Rules for Chicago Terminal
Signals, Rule C-292, figure F. STOP. Indication.

Charge II. Alleged failure to comply with the
AMT-1, NORAC Operating Rules, Rule B . . .

Charge III. Alleged failure to comply with AMT-1,
NORAC Operating Rules for Movement of Track Cars,
Rule 801 . . .

Specification: In that on July 29, 1990, at

approximately 11:10 a.m., while performing your duties as Foreman and Pilot of Speed Swing and Operator of Speed Swing, Unit N-47921, you allegedly passed the L-52 Signal displaying a STOP, indication on main Track #3, located at the Harrison Street Interlocking. In passing the L-52 Signal, in the STOP position you piloted/operated your ontrack vehicle, Speed Swing, Unit N-47921, into a collision path with Amtrak's Train #366 which was departing from Station Track #16 to Main Track #2.

The hearing took place on August 6, 1990. On August 8, 1990, the Carrier notified the Claimants that they had been found guilty of the charges against them and were being assessed discipline of a two-week suspension (time out of service - July 30 through August 14, 1990) and one year disqualification from their respective positions. The Claimants were also instructed to return to work on August 15, 1990.

The Organization thereafter filed an appeal on behalf of the Claimants; after which, the Carrier agreed to modify the discipline by reducing the disqualification periods of the Claimants from one year to six months, to expire on January 29, 1991.

Said decision of the Carrier being unsatisfactory to the Organization and the parties being unable to resolve the issues, this matter came before this Board.

This Board has thoroughly reviewed the evidence and testimony in this case and we find there is sufficient evidence in the record to support the finding that the Claimants were guilty of failing to comply with various operating rules on July 29, 1990. The record in this case makes it clear that the Claimants were using a speed swing to bring some materials into

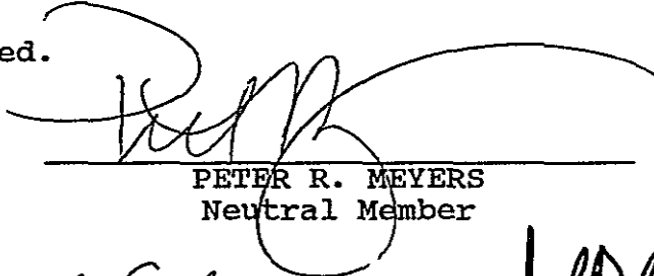
the Chicago Union Station and they disregarded a STOP sign and directed their vehicle into a collision path with another train. This Board is convinced by the testimony of the witnesses including the expert witness who testified that there is no way that the signal could have shown anything but STOP.

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 its action to have been unreasonable, arbitrary or capricious.

This Board takes note that both of the Claimants in this case had no prior disciplinary record. However, the record also reveals that the Carrier has already taken the previous records into consideration and reduced the disqualification periods from one year to six months. This Board does not see any need based on the record before us to reduce the discipline any further. Therefore, the claim will be denied.

AWARD


Claim denied.



PETER R. MEYERS
Neutral Member



Patricia A. Engle
Carrier Member



Organization Member

Dated: 3-31-92