

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 43

Docket No. NEC-BMWE-SD-1609D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

On June 30, 1986, Claimant D. Pettyjohn was notified to attend a hearing in connection with the charge:

Violation of Amtrak Safety Rule #4204B which reads:

- (b) Maintain constant lookout in the direction in which moving, particularly on curve, at switch, frog, crossing or intersection for obstruction or other unsafe condition. Self-propelled, hoisting and other equipment or machinery shall be headed in the direction in which moving, if practicable. Otherwise make arrangement that will assure constant lookout being maintained in the direction in which moving.

and Amtrak Operating Rules and Instructions, Rule 829G, which reads in part,

Block Signal System rules do not apply on portion of track taken out of service. All movements will operate at Restricted Speed.

Specifically, that on June 23, 1986 at approximately 10:15 p.m. you failed to maintain a constant lookout while you were moving Compactor N12310 south of #2 track at milepost 41.5, resulting in a collision which caused serious injury to yourself and property damage to Ballast Regulator #4245.

The hearing began on August 13, 1986, and completed on August 26, 1986. As a result of the hearing, Claimant was assessed a suspension of thirty working days. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

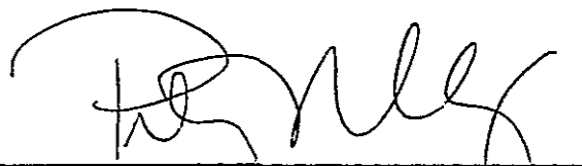
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of not properly performing his duty on the day in question.

Once this Board has determined that there is sufficient evidence

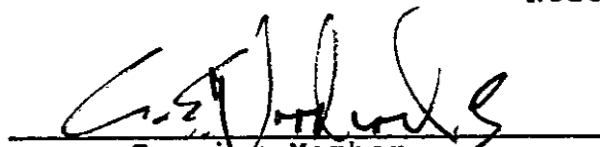
in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find it to be unreasonable, arbitrary, or capricious. In this case, the punishment was consistent with the nature of the offense. Therefore, the claim must be denied.

Award:

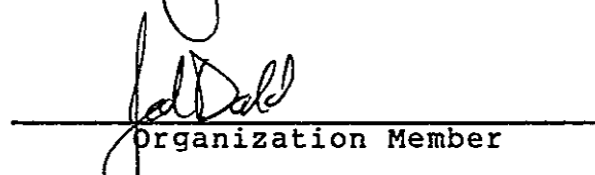
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 4-12-88