

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 81

Docket No. NEC-BMWE-SD-2006D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant R.G. Miller was employed as an EWE operator by Carrier in Baltimore, Maryland. On October 6, 1987, Claimant was notified to attend a formal investigation of the charge:

Violation of National Railroad Passenger Corporation Operating Rules and Instructions, Rule 828, which reads in part: "Maximum speeds, unless otherwise specified . . . All types of equipment . . . When pushing track cars or trailers - 5 MPH."

Specification: In that on Thursday, October 1, 1987, you were exceeding the maximum authorized speed for pushing track cars or trailers on #7 Track Baltimore Station at approximately 5:15 in the A.M., causing a derailment and extensive damage to Amtrak equipment.

The hearing was completed on November 12, 1987, and as a result, Claimant was assessed a forty-five-day suspension and was disqualified for one year as Engineer Work Equipment. The Organization thereafter filed a claim on Claimant's behalf, challenging the discipline.

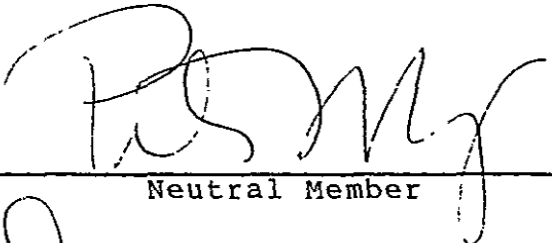
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating the Carrier's rules and instructions when he exceeded the maximum authorized speed, causing a derailment and extensive damage to Amtrak equipment.

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 the action of the Carrier to have been unreasonable, arbitrary, or capricious.

Given the nature of the wrongdoing and the prior service record of the Claimant, which includes a previous disqualification for violation of an operating rule, this Board finds that there is no basis to set aside the discipline issued to the Claimant by the Carrier. Therefore, the claim must be denied.

Award:

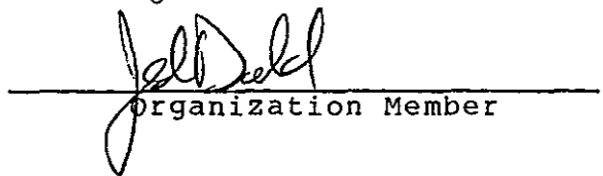
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 1-26-89