

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 95

Docket No. NEC-BMWE-SD-2128D

PARTIES: Brotherhood of Maintenance of Way Employes

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant A. Migliore was employed as a track foreman by Carrier at its Sunnyside Yard in New York. On January 18, 1988, Claimant was directed to attend a formal investigation in connection with the following charge:

In that on January 6, 1988, you were in violation of Amtrak General Rule of Conduct, Rule B, which reads in part, "Employees must understand and comply with safety regulations and practices pertinent to their class or craft of employment. In all circumstances, employees should take the safest course of action. Hazardous condition . . . must be immediately reported to the appropriate supervisor and corrected as quickly as possible. Employees must promptly report . . . defects in tracks . . . which may affect the safe movement of trains . . ." When you were informed of a possible pull-apart by the Trouble Desk and did not inspect the track to determine the severity of the problem, but instead placed a 30 MPH slow order on the track, which in effect allowed trains to operate over a hazardous condition.

The hearing took place on February 18, 1988, and as a result, Claimant was disqualified for one year as a track foreman/assistant foreman. The Organization thereafter filed a claim on Claimant's behalf, challenging his disqualification.

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 Rule B when he failed to visually inspect and report the hazardous condition.

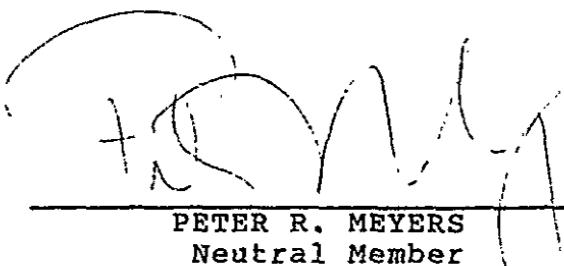
Once this Board has determined there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a

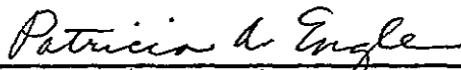
Carrier's imposition of discipline unless we find the action taken by the Carrier to have been unreasonable, arbitrary, or capricious.

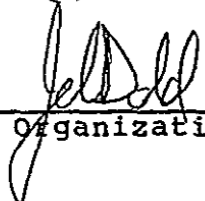
In the case at hand, the Claimant received a one-year disqualification as a track foreman/assistant foreman in response to his negligence of failing to inspect the track. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

Award:

Claim denied.


PETER R. MEYERS
Neutral Member


Carrier Member


Organization Member

Date: 6-14-89