

Referee Harold M. Weston

PARTIES Railroad Yardmasters of America  
TO  
DISPUTE: Erie Lackawanna Railway Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that: -

The record of Yardmaster M. E. Kalopos be cleared and that he be reimbursed for the ten day suspension he was required to serve as the outcome of an investigation held on July 7, 1970 dealing with an accident at Sharon, Pa., on June 25, 1970.

OPINION OF BOARD: This dispute concerns the ten day suspension administered Claimant, the second trick yardmaster at Sharon, Pennsylvania, as a result of a derailment that occurred when a yard crew working under Claimant's supervision moved a draft of cars in such a manner that a "high load" struck an overhead bridge having limited clearance.

We agree with Petitioner that a yardmaster is not the guarantor of his subordinates' work performance and should not be held accountable for their negligence. It is equally clear that discipline is not to be meted out to a yardmaster merely because employes under his supervision become involved in a costly accident during his trick. The controlling question is whether or not the yardmaster himself contributed to the accident by failure to use due care.

In the present case there is credible testimony in the record that Claimant knew that there was a clearance problem with the bridge and that he had received a message restricting the movement of the car in question under that bridge. The record also establishes that Claimant so far as he knew, did not believe that the crew was aware of this clearance problem but nevertheless did not advise them of it.

These facts do provide a sufficiently firm foundation for Carrier's findings of fact and we perceive no basis for substituting our judgment for that of Carrier, particularly in this matter that involves train movement, bridge clearance and Carrier's responsibility for safe transport.

Claimant's suspension does not constitute capricious or arbitrary discipline and we find no alternative but to deny this claim.

**FINDINGS:**

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Fourth Division

ATTEST:

*E. A. Killeen*  
E. A. Killeen  
Secretary

Dated at Chicago, Illinois, this 1st day of March, 1972.