

Referee Harold M. Weston

PARTIES Railroad Yardmasters of America  
TO  
DISPUTE: Union of Belt of Detroit

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

The record of Yardmaster C. Gow be cleared of the fifteen-day overhead suspension assessed against him as the result of an investigation held on January 18, 1971 in connection with an accident which occurred near Harbaugh Avenue on January 4, 1971.

OPINION OF BOARD: Claimant, a yardmaster, was administered a fifteen day overhead suspension as the result of an accident that occurred at the yard under his supervision.

A hearing was duly held in the matter and we find no merit in Petitioner's contention that the notice of charges given Claimant was inadequate or that any other prejudicial error was committed by Carrier.

The record fails to establish, however, that Claimant was responsible for the accident and does not provide a proper basis for discipline. Indeed, Trainmaster Acton's testimony would seem to indicate that the contrary is true. Certainly, a yardmaster is not responsible for the negligence of the employe under his supervision when there is no showing that he himself has failed to use due care.

## 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 sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Fourth DivisionATTEST: *E. A. Killeen*  
E. A. Killeen  
Secretary

Dated at Chicago, Illinois, this 7th day of April, 1972.