

PARTIES Railroad Yardmasters of America  
TO  
DISPUTE: Richmond, Fredericksburg and Potomac Railroad Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:  
Yardmaster L. C. Gorham be compensated for 5 day suspension served following investigation held on June 21, 1973, and his service record cleared of all charges.

OPINION OF BOARD: The instant claim arose on June 11, 1973 when 2 cars were humped into track #14 for classification, striking a cabin car on train No. 227 which was made up on track #14 and ready to depart. Claimant was the yardmaster who had issued the instructions for this move and due to his alleged failure to provide proper protection to the cabin car on track #14 he was given a 5 day suspension.

At the hearing claimant testified that he knew train No. 227 was on track #14 with a cabin car on it. He also admits issuing instructions to the conductor and tower man to cut the 2 cars into #14 and to protect them with a skateman. He denies that he was ever told to discontinue classifying cars in this manner. He feels that he has complied with Carrier's instructions and that he provided proper protection for the cabin car through the use of a skateman.

Carrier maintains that it has issued both verbal and written instructions to claimant that cars were not to be classified into a track occupied by a cabin car and that his failure to follow these instructions caused the 2 cars to be classified against the cabin car on train #227.

The record reveals that following an incident similar to the one at hand in 1972, claimant was issued written instructions that the practice of classifying cars into tracks occupied by cabin cars on out-bound trains without proper protection will be discontinued. Those instructions failed to make clear, however, that Carrier intended that cars were not to be classified into such occupied tracks under any circumstances. Claimant felt as though he fully complied with those instructions when he ordered the cabin car protected with a skateman.

Yet, in addition to these vague written instructions Trainmaster Barksdale testified that he had told claimant within the previous 6 months to cease the practice of classifying cars onto tracks occupied by a cabin car. Whether claimant misinterpreted these verbal instructions is not clear. However, it is clear that they were not complied with and the collision occurred as a result. We thus conclude that Carrier has produced substantive evidence that claimant failed to follow verbal instructions that cars were not to be classified onto tracks occupied by a cabin car. His failure to follow these instructions, we believe, was the cause of the collision and while no damage to personnel or property occurred the discipline imposed was justified in light of the potential harm that could have resulted.

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: Executive Secretary  
National Railroad Adjustment Board

By:   
Assistant Executive Secretary

Dated at Chicago, Illinois, this 5th day of September 1974