

Referee Dana E. Eischen

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

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

Yardmaster B. E. Conway be compensated for 15 days at yardmaster rate account suspended and his record be cleared of all charges, in relation to investigation held on March 23, 1973.

OPINION OF BOARD: This is a discipline case wherein Claimant was assessed a 15 day actual suspension in connection with a derailment at the East End of Brier Hill Yard at Youngstown, Ohio. Claimant was working the third trick yardmaster assignment at East End on February 25, 1973. During this tour he ordered the crew of Train MC-3 to back up on the westbound main track pursuant to a prearranged move. Upon backing up the rear end of MC-3 sideswiped cars being switched from the westbound main track, causing a four-car derailment which blocked both the eastbound and westbound tracks. Following a hearing and investigation on March 9, 1973 Claimant was disciplined with 15 days actual suspension for violation of Operating Rules.

Close examination of the hearing transcript shows that Claimant conceded that he was not sure of the location of the yard crew and yard engine; nor was he aware of the position of the rear end road crew of MC-3 or if proper protection for the movement was provided. Nonetheless, Claimant instructed the crew of MC-3 to make a reverse movement on the westbound main line which resulted in the sideswipe of the cars being handled by the yard crew on the westbound main line and derailment of four cars from MC-3. Based upon Claimant's testimony as to the foregoing facts, it is unquestioned that substantial evidence supports the imposition of discipline.

As the yardmaster on duty, Claimant was responsible to properly supervise the movement of Train MC-3. We do not hold a yardmaster as guarantor of the proper performance of subordinate's duties, but he is accountable to a high standard of care in the performance of his own duties. We conclude that substantial evidence indicates that Claimant did not measure up to this standard in the movement of MC-3 on February 25, 1973.

Finally, we cannot find the discipline assessed herein to be unreasonably harsh or excessive under the circumstances and accordingly we will not substitute our judgment for Carriers in this regard.

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 3th day of January 1975.