

Referee I. M. Lieberman

PARTIES Railroad Yardmasters of America
TO
DISPUTE: Lehigh Valley Railroad Company, Debtor

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

Yardmaster Thomas McGovern be compensated for 7 days at yardmaster rates for discipline served and the 30 demerit marks be removed from his personal record also assessed as discipline.

OPINION OF BOARD: Claimant was assessed discipline consisting of seven days suspension and thirty demerits for his alleged responsibility in causing a collision between the 7:00 A.M. Bethlehem Road Drill and the 7:59 A.M. Lightside Hump Crew at 8:17 A.M., November 7, 1973 while he was serving as Yardmaster at the Allentown Consolidated Yard. The Accident resulted in the derailment of one car and damage to the engine and to twenty other cars. Carrier specifically found that Claimant was in part responsible for the collision in that there was a failure between Claimant, as Yardmaster, and the Yard Foreman of the 7:00 A.M. Bethlehem Road Drill to have a firm understanding of the move in question.

The record of the investigation reveals that Claimant did not in this instance give any instructions to the Yard Foreman to shove or not to shove track #8. However the Conducting Officer established by his own questioning that Claimant and the Yard Foreman had a definite understanding with respect to shoving the tracks. Based on this normal understanding between the two men the Yardmaster cannot be held responsible for this particular accident. The seriousness of the incident cannot be minimized nor can Carrier's right to impose discipline when employees fail to perform their duties in an efficient and satisfactory manner be ignored. In this case, however, the evidence does not support Carrier's charge and conclusions.

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.

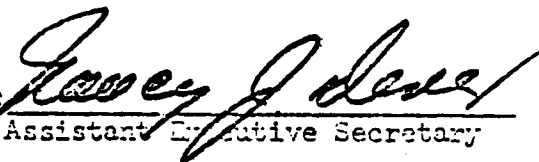
The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 5th Day of February 1975.