

PUBLIC LAW BOARD NO. 3337

AWARD NO. 7

CASE NO. 7

PARTIES TO DISPUTE:

Consolidated Rail Corporation

and

Railroad Yardmasters of America

STATEMENT OF CLAIM

"Appeal from discipline of "disqualified as a Yardmaster in all capacities" assessed Theodore C. Gabler on the following charge:

"Your failure to properly protect the westward movement of #501 track in accordance with existing instructions at approximately 2:40 AM, Thursday, November 4, 1982, resulting in a run out, side swipe and derailment with a pulling draft of cars from #507/502 tracks, this while assigned as Yardmaster in charge of #5 Hump, Conway Yards, Conway, Pa., commencing 11:00 PM, November 3, 1982." "

OPINION OF BOARD

The claimant was notified to attend a hearing concerning an asserted failure to protect a westward movement with a resultant "run out, side swipe and derailment..." Subsequent to the hearing the claimant was notified that he was disqualified as a Yardmaster in all capacities.

The Organization has raised several procedural objections dealing with matters such as holding the Employee out of service, specific nature of charges, etc. however we are unable to find anything of record which would preclude us from considering the case on its merits.

There are certain instructions at the yard in question which the Employee has conceded he was aware of, dealing with communications in the normal course of employment. The evidence of record convinces us that this Employee did not fully comply with the instructions and that there was, in fact,

certain culpability on his part. We question however that a total disqualification from all subsequent service is appropriate in this particular case especially since there is nothing of record to indicate this Employee has been previously guilty of these types of inattention to duty.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

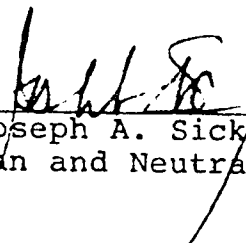
This Board has jurisdiction over the dispute involved herein.

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

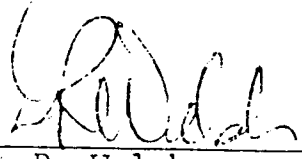
AWARD

1. Claim is sustained to the extent of removal of the disqualification prospectively.

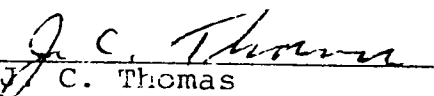
2. The Carrier shall comply with this Award within thirty (30) days of the effective date hereof.



Joseph A. Sickles
Chairman and Neutral Member



G. R. Welsh
Carrier Member



J. C. Thomas
Organization Member

8/9/43
DATE