

AWARD NO. 53  
Case No. 53

Organization File No.  
Carrier File No.

**PUBLIC LAW BOARD NO. 7154**

PARTIES ) BROTHEROOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN  
          )  
TO )  
          )  
DISPUTE ) CANADIAN NATIONAL (ILLINOIS CENTRAL RAILROAD)

STATEMENT OF CLAIM:

Claim of CN/IC Engineer M. D. Williams for removal of a five (5) day suspension, plus an unwarranted activation of a ten (10) day suspension and plus one (1) day attending the investigation held on March 2, 2010 to determine his responsibility, if any, in whether or not you violated any company rules, instructions or policies in connection with the alleged personal injury . . .

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated October 15, 2007, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.


After spotting an empty flat car on the rip track, Claimant began to move his locomotive consist of two units. Although there was a hand brake applied on the flat car, it began to roll toward the engines. Claimant's conductor, who was on the trailing unit, radioed Claimant to stop so the car could couple onto the engine. The car recoupled but Claimant reported that he bumped his hand on the locomotive control stand when the coupling jarred him.

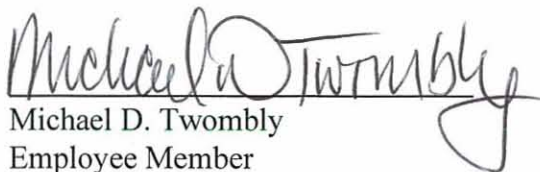
Claimant was subsequently directed to attend a formal investigation in connection with this incident. Following the investigation, Claimant was assessed a five day suspension. This resulted in Claimant additionally being required to serve a ten day suspension that had been previously deferred.

Our review of the record of the investigation shows that Claimant was aware that the coupling was imminent. Before the coupling, according to Claimant, he had his hands on the armrest of the engineer's seat. When asked if he had time to brace himself prior to the impact, Claimant responded, "He told me the car was about to couple, a few seconds later. No I did not." Claimant's conductor testified, "I told him its fixing to couple up. I said 20 feet, 10 feet, and that will do. I said its coupling up right now is how I said it."

In light of the record before us, we cannot disagree with the Carrier's conclusion that Claimant had sufficient time to brace himself before the impact. Had he done so, it is likely the injury would have been prevented. Under the circumstances, we do not find the discipline imposed to be arbitrary or unreasonable.

AWARD: Claim denied.

  
Barry E. Simon  
Chairman and Neutral Member

  
Michael D. Twombly  
Employee Member

  
Timothy E. Rice  
Carrier Member

Dated: JANUARY 18, 2011  
Arlington Heights, Illinois