

PARTIES) UNITED TRANSPORTATION UNION
 TO)
 DISPUTE) v.
) BURLINGTON NORTHERN RAILROAD (Former Fort Worth
 and Denver Railway Company)

STATEMENT
 OF CLAIM:

Claim of Yard Helper G. T. Smith for payment of time lost, plus four (4) hours pay for attending investigation and removal of entry against his personal record account suspended for a period of five (5) days for violation of Rule 808 of the Consolidated Code of Operating Rules in connection with derailment at the east end of Amarillo yard, September 2, 1981.

OPINION OF THE BOARD

This is a companion case to Award 127. The facts are identical in this case with the exception that Claimant in this dispute was assigned to Yard Job 201 and worked as a fieldman under the Claimant Foreman in Award 127. In this case, Claimant was found in violation of Rule 808 of the Consolidated Code of Operating Rules and was assessed discipline of five (5) days' suspension because of his dereliction of duty.

The evidence in this case clearly reveals that the crew, of which this Claimant was a member, was switching on West Lead and kicked one car into Track 5 and one in Track 6. The foreman then kicked two cars into Track 4 which got away and derailed on the east end of the yard. The facts further disclose that at this time, Claimant was tying a brake on the car previously kicked into Track 6 which prevented it from rolling in a westward direction fouling the lead track.

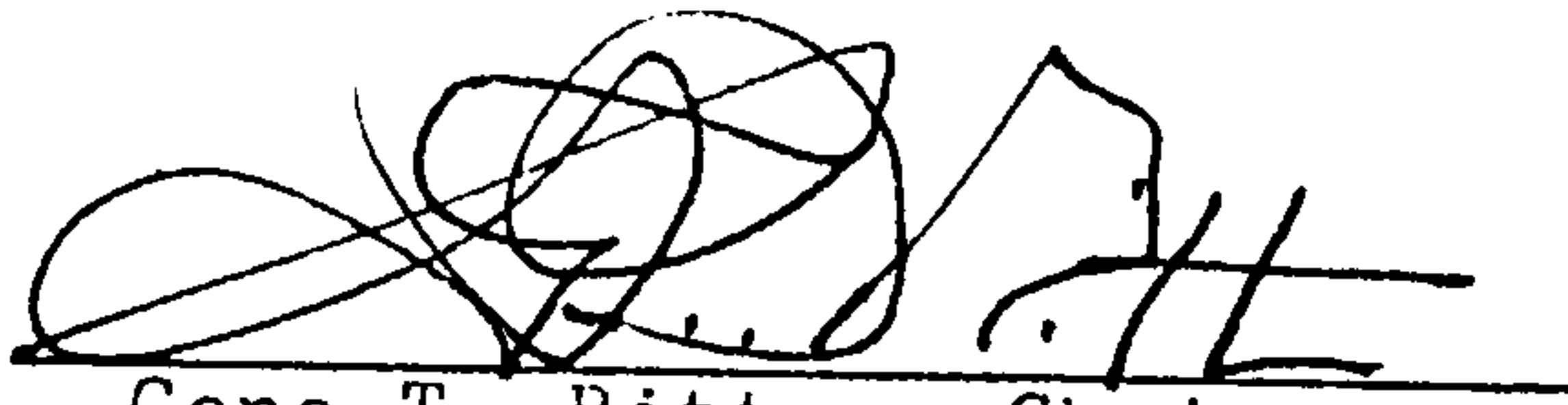
The Record in this case fails to disclose any negligence on the part of this Claimant. He was not in charge of the switching operations, and at the time of this accident, Claimant was busy

performing the service of tying a brake on the car previously kicked into Track 6, thus preventing it from rolling in a westward direction fouling the lead track. Carrier has failed in its burden of proof in this instance.

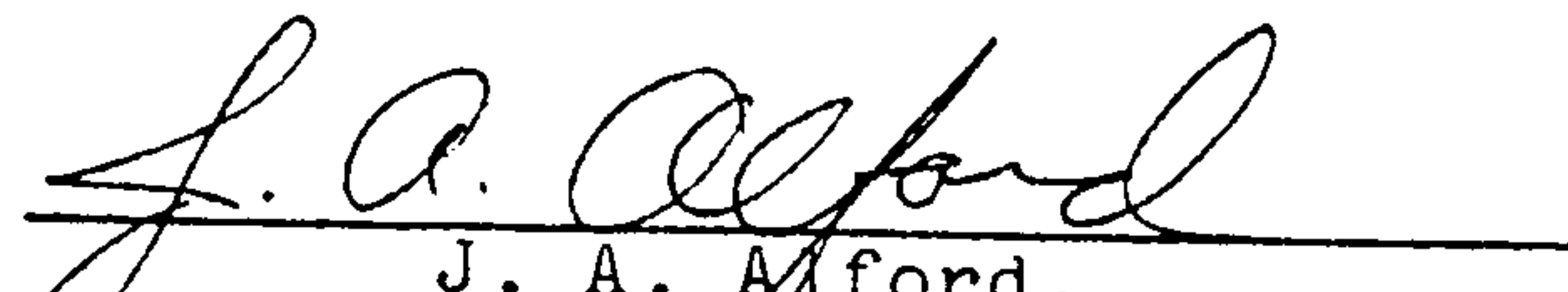
AWARD: Claim sustained.

Carrier is directed to comply with this Award within thirty (30) days from the date hereof.

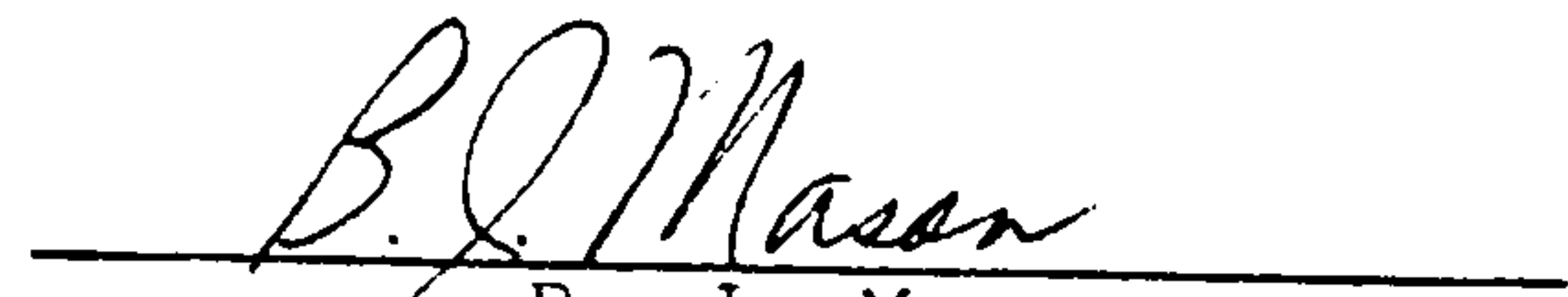
Signed at Fort Worth, Texas this 15th day of MAY, 1984.



Gene T. Ritter, Chairman



J. A. Aiford,
Organization Representative



B. J. Mason,
Carrier Representative