

Award No. 5997
Docket No. 5855
2-CRI&P-(CM)-'70

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Carmen)**

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the controlling Agreement Local Chairman A. L. Dodson was unjustly assessed a 30 days' suspension, to be held in abeyance, following an investigation held on July 17, 1968.

2. That accordingly the Carrier be ordered to remove this 30 days' suspension from Mr. Dodson's personal record.

EMPLOYES' STATEMENT OF FACTS: The Chicago, Rock Island and Pacific Railroad, hereinafter referred to as the carrier, maintains at Little Rock, Arkansas a Repair Track and Train Yard where Local Chairman A. L. Dodson is employed as a carman.

On May 24, 1968 the carrier's Car Foreman, Leo Wilson, dispatched a truck to Kay, Arkansas from Little Rock to rerail a car, under supervision of Leading Carman A. L. Thompson. While at Kay, Arkansas the truck became mired in the mud, and in the process of freeing the truck, Lead Carman A. L. Thompson threw an oak wooden block, 3 inches thick, 12 inches wide, and 36 inches long, off of the truck striking the claimant on top of the head. After completing the work assignment at Kay, Arkansas they returned to Little Rock, arriving there at 11:30 P. M., May 24, 1968, a Friday night. A report of the injury in writing was made by the claimant on Monday morning to R. A. Vaughn, General Car Foreman, after which the claimant reported to the Company Doctor, Dr. Paul Hoover.

On July 17, 1968, an investigation was held "for not properly reporting personal accident to yourself on May 24th, while working at Kay, Arkansas."

On July 22, 1968, the carrier posted a notice on all bulletin boards at the Little Rock Facility entitled, "With Reference to Reporting Personal Injury."

The only conclusion to be reached in the case at bar is that the carrier acted in good faith; therefore, the Board is respectfully requested to find this claim without merit and deny the same in its entirety.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes 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.

Parties to said dispute waived right of appearance at hearing thereon.

On May 24, 1968, during the morning hours, Claimant was accidentally struck on the head by a wooden block thrown from a truck by a fellow employe. Claimant, although complaining of pain and dizziness, continued his work throughout the day. The work force returned at about 11:30 P. M. that same day. Claimant did not report the accident.

The following two days were Claimant's rest days. On Monday, May 27, 1968, he reported the accident to proper authority.

On June 11, 1968, Claimant was notified that an investigation would be held to determine his responsibility for failing to properly report the accident. After hearing Claimant was found to have violated Rule BB of Carrier's Safety Rules, and was given a 30-day suspension. The suspension was held in abeyance for one year, after which it would be removed if Claimant had a clear accident record.

Rule BB provides:

"Every injury, no matter how trivial, must be reported IMMEDIATELY to foreman, supervisor or officer in charge; in train and yard service to both the conductor and/or engineer. Those receiving report must IMMEDIATELY make wire report to Superintendent and others with jurisdiction, giving all details possible."

The Organization took exception to the discipline imposed, asserting that this violated Rule 36 of the Agreement which prohibits Carrier from discriminating against Organization representatives. (Claimant was a local chairman.) There is nothing in the record to show that Carrier discriminated against Claimant, and the charge is without merit.

The Organization further asserts that Safety Rule BB (a unilateral Carrier rule) is inconsistent with Rule 39 of the negotiated Agreement between the parties.

Rule 39 provides, in part:

"PERSONAL INJURIES

Employes injured while at work are required to make a detailed written report of the circumstances of the accident just as soon as they are able to do so after receiving medical attention. * * *

(Emphasis ours.)

The Board finds that the two rules are not inconsistent, but complementary. Carrier, in the furtherance of safety and protection of itself and its employes, is entitled to be promptly notified, through its supervisory personnel, of any accident which has occurred. Rule 39 thereafter requires a detailed written report of the details of the accident.

The fact that Lead Carman Thompson was aware of the accident was not relevant. He was not Claimant's supervisor. Claimant should have notified his foreman upon return that night. If that was not possible, Claimant should have notified his supervisor the following day, even though it was a rest day for Claimant.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 24th day of September, 1970.