Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 9167
SECOND DIVISION Docket No. 9252
2-CR-MA-'82

The Second Division consisted of the regular members and in addition Referee Albert A. Blum when award was rendered.

Parties to Dispute: (International Association of Machinists and Aerospace Workers
(Consolidated Rail Corporation

Dispute: Claim of Employes:

1. That the Consolidated Rail Corporation be ordered to remove the discipline of letter of reprimand from the record of Machinist S. DeTillio.

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.

The Claimant, S. DeTillio, ate lunch in the cab of a unit that was in a wash rack. The unit, while he was having lunch, was sprayed with soap. The Claimant was aware of the soapy surface when he began his descent down the steps of the cab. He placed his "right hand on handrail starting to turn around and ... slipped on the top step and slide (sic) all the way down".

The Carrier feels that the Claimant deserves the letter of reprimand he received because he violated various safety rules by not taking proper care when he was climbing down from the cab and by not seeing a doctor right away. The Organization feels that the Claimant did not violate safety rules in that although he did not report the injury immediately, he sought medical assistance on his own that evening, and that he had taken adequate care when he descended by placing his "foot firmly on the top step and by grasping the hand rails".

When descending stairs with a soapy and consequently slippery surface, holding on to one handrail while turning around on the top step is not taking adequate care. To a degree, proof of lack of care is the fact that Claimant did indeed fall. If the Organization is claiming that the Claimant or any other worker with care would have fallen on such a soapy surface, then employes should not eat in a cab of a unit in a wash rack when there is a safe lunchroom facility in which he could have eaten. Past rulings regularly attest to the need of employes to exercise care at work and that the Carrier has the ultimate responsibility to ensure that such care is taken (See First Division Award 17047), Third Division Awards 11775 and 14066 and Special Board of Adjustment No. 589, Award No. 152-LE). Consequently, a letter of reprimand is justified.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June, 1982.