

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That Mr. David Surrette was unjustly assessed ten (10) days overhead suspension for a six (6) month period, commencing March 12, 1980, through September 12, 1980, as a result of an investigation held at Flint, Michigan, at 1:30 P.M., Thursday, January 31, 1980.
2. That accordingly all reference to this investigation and punishment be removed from his personal record.
3. That accordingly the Chesapeake and Ohio Railway Company compensate Mr. David Surrette the appropriate rate of pay for nine (9) days (72 hours) for lost time due to the injury which covers the period of December 27, 1979, through January 22, 1980.

Findings:

The Second Division of the Adjustment, 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.

At the time of the issuance of discipline, the Claimant, Carman David Surrette, had worked for the Carrier six and one-half years. As a result of the investigation, Claimant was found guilty, as charged, with violation of Carrier's Safety Rules 1 and 21 on December 23, 1979, and a ten (10) day overhead suspension was imposed.

On December 26, 1979, the Claimant reported an accident which took place three days previously. He said he was injured attempting to close a box car door with a crowbar when he slipped and was struck by the crowbar. The Organization disputes the conclusions reached by the Carrier and asserts discipline was imposed without benefit of substantial, credible evidence that Claimant had engaged in conduct, as charged. The Organization also requests compensation for nine (9) days pay the Claimant lost due to the injury.

The record reveals the Claimant was familiar with Carrier's safety rules, which require the reporting of injuries. Safety Rule 1 states, in part:

"Employees must report all personal injuries regardless of how slight to proper supervisory officer, giving full details in duplicate on Form CJ-68 before ending tour of duty or as soon thereafter as possible."

Safety Rule 21 states:

"Before using tools, appliances, machines, vehicles, or other equipment, employees must be sure that they are in safe condition. Defective items must be repaired or removed from service promptly."

This Board's review of the evidence fails to confirm the Organization's arguments. The record substantially supports the Carrier's conclusion that the Claimant's actions were violative of Safety Rules 1 and 21. Therefore, we are disinclined to disturb the discipline issued. Finally, the claim for nine days pay as a result of the injury is specifically a personal injury claim, and this Board is not the proper forum for the advancement of such action.

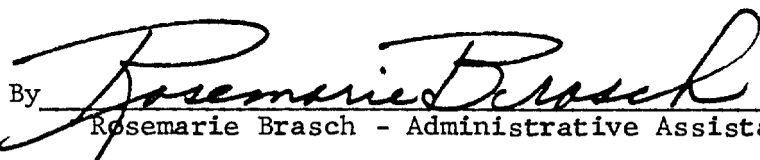
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 4th day of May, 1983