

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10349
Docket No. 10482
2-CRC-MA-'85

The Second Division consisted of the regular members and in addition Referee James R. Cox when award was rendered.

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

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to compensate Machinist P. E. Fuegmann ten (10) days pay at the prevailing Machinist Rate of pay.
2. That this alleged offense be removed from his record.
3. The Agreement of May 1, 1979 is controlling.

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 employes 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.

Claimant, P. E. Fuegmann, a Machinist at the Selkirk Diesel Terminal, protests a ten-day suspension he received for working without safety glasses January 10, 1982. The Consolidated Railroad Corporation's safety glasses policy requires that eye protection be worn at all times in work areas. When detected on the 10th, Fuegmann was working with the Lubrication Gang with his glasses in his shirt pocket. Claimant admitted not wearing safety glasses that day, stating that the glasses he had been issued did not fit properly and gave him headaches. Claimant asserts that his Supervisor told him in February, 1981, to cut off deteriorated side screens and that he would get him another pair. The Supervisor denies making any such statement.

Fuegmann contends that, since he had not been properly fitted with safety glasses, he should be excused from wearing them. He asserts that he had spoken to several Supervisors concerning the ill-fitting glasses and that each reassured him that they would see what they could do. His own Supervisor denied receiving any complaints about ill-fitting glasses after 1980.

Sometime during either 1979 or 1980, after Claimant had been sent to an eye doctor because of headache complaints, Fuegmann was given an emergency purchase order for special oversized glasses. Thereafter, he did not complain further of headaches during the two-year period prior to his 1982 discipline.

Safety rule violation records from August, 1975 through January 10, 1982, disclose that Claimant had been cautioned for failure to wear safety glasses on nine occasions. Although he recognized that he continued to violate the safety glasses rule, the evidence shows insufficient efforts on Fuegmann's part to get his glasses changed during the approximate two-year period during which he asserts he was having difficulty with his glasses. He did not attempt to resolve his alleged problem through either the Organization or the grievance procedure. Under these circumstances, the Board does not find the violation of the safety rule to have been either caused or excused by any failure of the Carrier to furnish adequate glasses.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1985.