

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 remove the letter of reprimand from the record of Machinist R. A. Rider for alleged violation of Safety Rules 4226 and 4229, in accordance with the provisions of Rule 7-A-1 (e) of the prevailing Agreement effective May 1, 1979.

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 employees involved in this dispute are respectively carrier and employees 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 Richard Alan Rider, a Machinist at the Selkirk Diesel Shop, broke the third finger on his right hand September 22, 1981 in the course of removing brake shoes from a unit. According to Rider, "I had my right hand on the bottom of the brake shoe, my left hand was in the middle. I was taking it out of the head and it slipped out of my left hand and caught my right finger between the brake shoe and the rail."

Rider immediately reported the accident to his foreman, then resumed work. The method he had used in changing the shoes that day was the same method he utilized throughout his service with the Carrier. The procedure is still the present method of installation. The foreman testified that the only way he knew to install brake shoes was to place his hand or finger between the shoe and the brake head or between the shoe and the rail.

Rider was given a formal letter of reprimand for violation of Safety Rules 4226 and 4229.

Rule 4226 reads in pertinent part:

"Keep hand ... in a position where ... material or other heavy or unwieldy object being handled cannot fail or shift unto or against it and where it will not be caught between object being handled to provide protection."

Rule 4229 was not shown to be relevant to this accident.

There is no evidence that Claimant could have avoided the incident by positioning his hands or finger in any other manner than he followed in the course of removing the brake shoes. Therefore, the Board finds no evidence that his conduct violated any Safety Rule.

Accordingly, the claim is sustained. The letter of reprimand shall be removed from Rider's file.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of May, 1985.