

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (International Association of Machinists
(and Aerospace Workers
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. Norfolk and Western Railway Company violated Section A-1 of the schedule agreement as amended May 1, 1983, but not limited thereto, when it arbitrarily and capriciously disciplined Machinist B. J. Hall by assessing him a ten (10) day deferred suspension following investigation held on October 10, 1984.

2. Accordingly, Machinist B. J. Hall's record should be cleared of any reference to the discipline.

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 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, with about seventeen years of service, was, at the time of the occurrence giving rise to the dispute herein, employed by the Carrier as a Machinist at its Locomotive Repair Facility at Bellevue, Ohio. At about 1:30 P.M. on August 13, 1984, he was tightening the bolts on the exhaust manifold of Locomotive No. 1521, when the ladder on which he was standing slipped, causing him to fall, resulting in cutting his left shin and bruising his left hip. On August 14, 1984, he was notified:

"You are hereby notified to report to the Conference Room, of the Locomotive Department at Bellevue, Ohio, at 9:00 AM, August 21, 1984, for a formal investigation (hearing) to determine your responsibility in

connection with your sustaining an injury to your left leg and left hip on August 13, 1984, at approximately 1:30 PM, in that while attempting to climb an aluminum ladder you failed to make sure it was properly positioned to sustain your weight."

By Agreement the Investigation was postponed and conducted on October 10, 1984. A copy of the Transcript of the Investigation has been made a part of the record. Claimant was present throughout the Investigation and was represented. Following the Investigation, Claimant was assessed discipline of ten days deferred suspension. The Carrier states that during appeal the ten-day deferred suspension was reduced to a five-day deferred suspension.

We have carefully reviewed the Transcript, and find that the Investigation was conducted in a fair and impartial manner. Substantial evidence was adduced at the Investigation to warrant discipline against the Claimant. It was the Claimant's responsibility to see that the ladder he was using in the performance of his work was in a safe condition and was properly placed so that he could perform his work with safety to himself. The discipline imposed was not arbitrary, capricious or in bad faith. There is no proper basis for the Board to interfere, and the Claim will be denied.

We call attention that some of the Carrier's exhibits simply are not legible, especially pages 50 and 51 of Carrier's Exhibit "A". If parties to disputes before this Board expect their submissions and exhibits to be considered, then such material must be submitted in legible form.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois this 7th day of January 1987.