

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Southern Pacific Transportation Company
(Western Lines)

STATEMENT OF CLAIM:

1. That under the current Agreement, Mechanical Department Electrician L. B. Morant was unjustly treated when her Personal Record was assessed 90 Demerits on May 8, 1989, following investigation for alleged violation of Rule "M" of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines).

2. That accordingly, the Southern Pacific Transportation Company be ordered to remove 90 Demerits from the Personal Record of Electrician L. B. Morant.

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.

On November 4, 1988, Claimant reported to her supervisor that she wanted to complete an accident report. He asked her what her injury was and when the accident happened. Claimant replied that she really did not know what caused it but her doctor said it was carpal tunnel syndrome and could be job related.

After the accident report was reviewed, Claimant was notified that she was being charged with an alleged failure to report an accident in violation of Rule M. That Rule reads in part:

"Every personal injury suffered by an employe ... must be reported without delay to his immediate superior prior to completion of shift."

Claimant was found guilty of violating Rule M and was assessed 90 demerits. The Carrier noted that it normally discharges employees for violation of Rule M.

The question in this case is when Claimant knew of her injury which can occur over an extended period of time. It is clear that Claimant did not know of the injury in 1987 when she claims it first occurred; however, on September 19, 1988, she was sent a letter by her doctor addressed TO WHOM IT MAY CONCERN which states:

"[Claimant] was formerly a patient of mine who I evaluated in the Neurology Clinic at UCDMC. [Claimant] had a job doing electrical duty work which by her description, involved a great deal of pronation and supination at the wrist along with fine hand motion. On history, patient had complaints consistent with carpal tunnel syndrome and physical examination confirmed this, as did electromyography. The patient was referred to an orthopedist for further care. She is currently under the care of Dr. Todd Swanson at UCDMC.

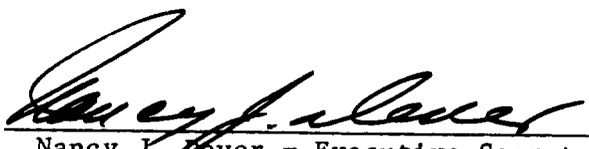
In reviewing the literature I have found the correlation between work that involves fine hand movements, frequent pronation and supination, and carpal tunnel syndrome. I believe that given her history [claimant] would have occupationally related carpal tunnel syndrome. If you require any further information from me, please don't hesitate to contact me at UCD Medical Center."

The letter should have indicated to Claimant that her injury could be work related and she should have at that time, September 19, 1988, filed an accident report. This was almost two months before she did file the required report.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1992.