

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12759
Docket No. 12636
94-2-92-2-180

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical
(Workers
(
(CSX Transportation, Inc. (former Seaboard
(Coast Line Railroad Company)

STATEMENT OF CLAIM:

- "1. That at Waycross, Georgia, on April 8, 1991, CSXT violated the controlling agreement, particularly Rule 32 when formal investigation was held March 19, 1991 with Electrician R.T. Williams, ID 162026, alleged charged with violation of that portion of Rule one (1) of the Safety Handbook, which reads employees must exercise care to avoid injury to themselves or others and CSXT assessed discipline of five (5) days suspension beginning April 11, 1991 through April 15, 1991.
2. That Electrician R.T. Williams be compensated for eight (8) hours pay at the pro rata rate for five (5) days by reason of CSXT unjustly suspended Electrician Williams and he be made whole for all vacation rights, all health and welfare and insurance benefits including Railroad Retirement and Unemployment insurance, and his record cleared of this subject."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 of hearing thereon.

Claimant is employed by Carrier as an Electrician in Carrier's Engine House Facility at Waycross, Georgia. On August 5, 1990, while Claimant was performing electrical work on Locomotive 1002, he struck his neck on an electrical locker door, sustaining a personal injury. Claimant continued to work and it was not until he was home for the night that he realized that he had injured himself in a serious manner. The next day, he reported to work and informed his Supervisor that he had sustained a personal on-the-job injury. Claimant was sent to the medical unit. After undergoing a physical examination, he remained away from work until March 11, 1991.

On that day, Claimant was advised by letter that a formal Investigation into the accident on August 5, 1990, would be held. The Investigation was conducted on March 19, 1991, and Claimant was advised on April 8, 1991, that he had been assessed a five-day suspension from April 11, 1991, through April 15, 1991. Claimant lost three days of pay, since two off-days were included in the suspension.

This Board has reviewed the record of this case. Based on this review, we conclude that Claimant was hurt because of his failure to be aware of the position of the door when he arose. We also are of the opinion that Carrier contributed to this accident because the door in question was sprung and it would not close properly. While this Board is supportive of Carrier's efforts to take a strong stand on safety issues, it is also mindful of the fact that every time an employee is injured on the job, it is not a legitimate disciplineable offense. We do, however, think Carrier has a point to make in this case. It can do so, however, with a suspension on Claimant's record that does not cost him money. The Board therefore concludes that the five-day suspension shall be reduced to a two-day suspension. Claimant shall be reimbursed for the three days' pay he lost. A two-day suspension shall remain on his record.

AWARD

Claim sustained in accordance with the Findings.

Form 1
Page 3

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 13th day of October 1994.