

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13715
Docket No. 13620
03-2-01-2-18

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

(International Association of Machinists and
(Aerospace Workers
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- “1. Springfield Terminal Railway Company violated Rule 15 of the controlling Agreement, effective June 1, 1995, as amended when by letter dated October 17, 2000 the Carrier arbitrarily, capriciously and unjustly issued Machinist Herbert James a Formal Reprimand becoming part of his permanent record.
2. Accordingly, the decision should be reversed, Machinist James exonerated of the charge and his record and personnel files cleared of any reference thereto. And he be made whole for any and all losses suffered as a result of Carrier’s arbitrary, capricious and unjust actions, including but not limited to time spent at formal investigation/Hearing of September 29, 2000.”

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 were given due notice of hearing thereon.

On October 17, 2000 the Carrier assessed the Claimant with a formal reprimand. As a result of an Investigation held on September 29, 2000 the Carrier found that the Claimant was negligent in the performance of duties on July 28, 2000.

The facts in this case are not in dispute. On July 28, 2000 the Claimant was assigned to perform various duties on Carrier Locomotive 333. Two other Machinists were assigned to replace the coupler on the same locomotive. The Claimant finished his duties, cleaned up his tools, and when departing the locomotive noticed the other two Machinists trying to replace the knuckle on the locomotive. Instead of asking the other Machinists if the Claimant could assist them, he pulled up on the release lever. This caused one Machinist's glove to be pulled up and the thumb was injured.

The Carrier argues the Claimant should have reported to his supervisor when the assigned work was completed and as a result caused the injury. The failing to report did not cause the injury. The Claimant caused the injury by not asking the other two Machinists if they needed help, and if so what should be done. Instead, unbeknown to the other two Machinists the Claimant released the lever which caused the injury.

The Carrier has met its burden in proving the Claimant was negligent in his duties.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 20th day of March 2003.