

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

Parties to Dispute: ( System Federation No. 1, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
( Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the current agreement, Electrician John B. Lacey was unjustly treated when he received a suspension of ten (10) days for alleged violation of safety rules.
2. That, accordingly, the Carrier be ordered to dismiss the suspension of ten (10) days, remove the demerit mark and clear the record of the claim of the alleged charge.

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 employe 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 was given a ten (10) day suspension for failing to report a personal injury to his supervisor during his tour of duty on the day of its occurrence and for failing to observe and correct a tripping hazard.

As to the question of failing to report the injury we do not find that the record supports the Carrier's finding. The Claimant testified that when he tripped he did not feel that he had injured himself, i.e. caused himself physical harm. When it became apparent to him early the next morning that he had hurt himself he reported his injury. We do not find his actions to be violative of Safety Rule 4000. It is quite common for injuries to manifest themselves some time after the incident that caused them.

Safety Rule 4008 pertains to failing to observe and correct a tripping hazard. In the instant case the testimony is that the place where the Claimant tripped was underlit and littered with debris. The Claimant was utilizing a flashlight to aid him in performing his duties and failed to see a piece of sheet metal over which he tripped. On the basis of the facts

presented we cannot conclude that the Claimant was negligent as argued by the Carrier. The Carrier's narrow interpretation of the rule would lead this Board to conclude that it can maintain a debris littered work area that is underlit and then charge an employe who trips in that area with violating a safety rule. We cannot conclude that this would be the correct application of the rules.

That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 25th day of October, 1978.