

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States and Canada
{ Texas and Pacific Railway Company

Dispute: Claim of Employes:

- 1. That the Texas and Pacific Railway Company violated Rule 24 of the controlling agreement when they unjustly placed a letter of reprimand on the personal record of Carman L. A. McDonald without affording him an investigation.
- 2. That accordingly, the Texas and Pacific Railway Company be ordered to remove the letter of reprimand from Carman McDonald's record.

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.

The claimant herein seeks the removal of a letter dated September 26, 1978 from his personal file. The facts are uncontested. After suffering an eye injury while straightening sill steps with a sledge hammer, the Car Foreman held a conference with the claimant to discuss the accident and safety regulations. The Car Foreman then wrote the September 26, 1978 letter to claimant summarizing the substance of the meeting discussions. The letter was permanently placed in the claimant's personal record file.

The organization argues that the foreman's September 26, 1978 correspondence was a letter of reprimand which constitutes disciplinary action by the carrier. Since the alleged discipline was assessed without notice and an investigation, the carrier violated Rule 24 of the controlling agreement. The carrier characterizes the meeting as a counseling session and the letter was a confirmation of the subjects discussed at the conference. The letter, according to the carrier, was intended to improve the claimant's safety record.

Our review of the record reveals that the September 26, 1978 letter was a communication to the claimant from his foreman designed to benefit the claimant by emphasizing the importance of maintaining a safe workplace. Merely because the letter is permanently placed in his file does not convert the correspondence to a letter of reprimand. Second Division Award No. 8062 (Dennis). Both the carrier and the employe are responsible for obeying the code of safety regulations. Counseling and recordkeeping are to be encouraged so that all parties may be constantly aware of the need to eliminate all hazards in the work place.

Here, the carrier was engaging in a cooperative effort with the claimant to improve safety in the shop. By advising the claimant about safe work habits, the foreman was fulfilling his obligation to provide, whenever possible, a safe work environment for all employes. Because no discipline was imposed by the carrier, Rule 24 is inapplicable.

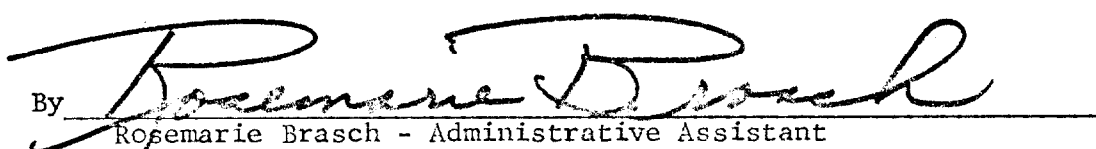
A W A R D

Claim denied.

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 3rd day of December, 1980.