

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada-AFL-CIO
(The Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That Carman R. W. Barnett was improperly suspended from the service of the Carrier from November 3, 1979 through December 7, 1979, inclusive.
2. Accordingly, the Louisville and Nashville Railroad Company should be ordered to compensate Carman R. W. Barnett for all pay lost as a result of the action or one-hundred and sixty-eight (168) hours at straight time rate plus all overtime that he would have earned had he not been improperly suspended, time claimed does not include vacation dates as scheduled November 24, thru 28th, 1979.

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 employees 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 grievant, R. W. Barnett is employed by the Carrier in Decoursey, Kentucky. At the time the grievance arose, the grievant worked on a rerailing gang. On July 26, 1979 the grievant's gang was called to rerail a car on No. 10 track in the North Bound Hump. During this process, the grievant allegedly hurt his back. No report of this incident was filed with the Carrier until August 23, 1979, some 28 days later.

The grievant was charged with violation of General Rule E which provides:

"An employee suffering an injury while on duty, regardless of the nature of the injury or the time it occurs, must report it immediately. Failure to do so will subject the employee to discipline. Where track or structures are involved, the specific switch, track, structure, etc., must be identified as shown in report. Details of the cause of the accident must be shown. The injured employee must fill out and sign the accident report if able to do so."

Following an investigation the Carrier suspended the grievant for thirty (30) days. The grievant argues this discipline is unwarranted. He maintains that he did report

the accident as soon as objective symptoms began to manifest themselves. The record does not support such a contention.

First, the accident report drafted by the grievant states, "... (W)hile prying on wheel I felt a sharp pain in my back and left leg..." Seems clear the grievant had instant notice of the injury.

Second, the report itself is dated July 26, 1979, the date of the derailment. Why didn't the grievant simply turn in the report at the end of his shift. By delaying, it might appear that the claimant planned to use the report later for any flare up of back trouble. The record does not support such an unscrupulous design but by his actions the grievant puts himself in a very potentially awkward position.

Third, the report incorrectly states the time of the accident. Such inaccuracies could be quickly and promptly resolved by following the rule quoted supra. The time error was corrected, some other details become blurred by the passage of time and this leads to inaccurate reports. Such problems support the need for careful observance of Rule E.

The Railroad industry presents many situations that are potentially dangerous to employees. This fact underscores the importance of an accurate report promptly filed. Such reports are important for insurance matters but serve another even more important end. By being put on notice of the facts surrounding an accident the Carrier can take steps to change procedures or equipment and thereby prevent future accidents. So, an employee's failure to follow Rule E, not only affects him but his fellow employees as well. By failing to promptly report accidents, dangerous conditions are allowed to **escape** possible elimination.

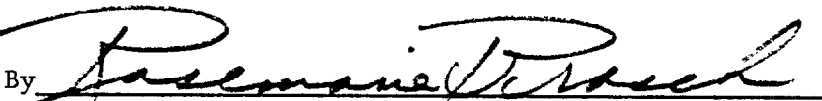
The record supports the Carrier's actions and will not be disturbed. This action is in line with the long standing rule on this and other divisions.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 22nd day of July, 1982.