

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(International Association of Machinists and Aerospace
Workers, AFL-CIO

Parties to Dispute: (
(Union Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Carrier violated the Controlling Agreement, Rule 37, but not limited thereto, when it assessed a thirty (30) day deferred suspension to Machinist T. E. Nelson's (hereafter referred to as Claimant) personal record.

2. That, accordingly, the Carrier be ordered to remove the thirty (30) day deferred suspension from Claimant's personal 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 employes 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, Machinist T. E. Nelson, has been employed by the Carrier, Union Pacific Railroad Company, since December 1, 1973, at the Salt Lake City Diesel Shop.

On April 23, 1983, Claimant sustained an on-the-job injury to his eyes. Because of the injury, the Claimant was unable to fill out an accident report by himself. The Claimant's Supervisor helped him to fill out the report, however, and it was submitted that day but without the Claimant's signature.

A few days later, the Claimant was instructed to fill out a second accident report; he did so but did not turn it in, acting on the advice of his Organization representative.

With respect to the substantive issues, the record is clear that the Carrier did receive prompt notification of the Claimant's injury. On the same day as the injury, the Claimant had a Supervisor help him fill out the accident report, although the Claimant neglected to sign it. Rule 45 states:

"Employees injured while at work are required to make a detailed written report of the circumstances of the accident just as soon as they are able to do so after receiving medical attention. Proper medical attention shall be given at the earliest possible moment and employees shall be permitted to return to work just as soon as they are able to do so, pending final settlement of the case, provided, however, that such injured employees remaining away from work after recovery shall not be held to be entitled to compensation for wage loss after they are able to return to work. All claims for personal injuries shall be handled with the personal injury claim department."

This Board therefore finds that since the Claimant did submit a written report of the accident as soon as he was able, he complied with the requirements of Rule 45.

However, the Carrier later requested that the Claimant fill out a second accident report; and although the Claimant had reportedly completed it, he has refused to submit it. He was instructed by the Carrier to submit the second report, and he has refused.

Although the Organization argues that there was no need for the second report, the facts are clear that the Claimant disregarded the clear instructions of the Carrier. Hence, he was in violation of Rule B, General Regulation 704, and General Safety Instruction 4004 of Form 7908, "Rules Governing Duties and Department of Employees, Safety Instructions and Use of Radio." Those rules state as follows:

"B. Employees must be conversant with and obey the rules and special instructions. If in doubt as to their meaning, they must apply to proper authority of the railroad for an explanation.

"704. Employees are required to report any misconduct or negligence affecting the interest of the railroad.

"Withholding information or failure to give factual report of any irregularity, accident or violation of the rules is prohibited."