Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 11006
SECOND DIVISION Docket No. 11021
2-SSR-MA-'86

The Second Division consisted of the regular members and in addition Referee W. J. Peck when award was rendered.

(International Association of Machinists and
(Aerospace Workers
Parties to Dispute: (
(Seaboard System Railroad

Dispute: Claim of Employes:

1. That the Seaboard System Railroad violated Rule 30, but not limited thereto, of the Controlling Agreement, when it unjustly suspended Machinist H. D. Watkins for 20 days beginning April 10, 1984 and running continuously through April 29, 1984.

2. That accordingly, the Seaboard System Railroad be ordered to compensate Machinist Watkins for all pay and benefits lost (made whole) as a result thereof and his record be cleared of the 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 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 is a Machinist employed at Carrier's Uceta Shops at Tampa, Florida. He has been employed by this Carrier since February 29, 1968.

On Friday, January 27, 1984, while walking on a paved area on Company property near the Shop building at approximately 7:30 P.M. Claimant allegedly stepped on a rock and twisted his knee. He immediately experienced some pain but completed his shift without making any report of the injury to his on duty Supervisor. He departed the Shop at 11:30 P.M. The following Saturday and Sunday were his rest days. He returned to work on January 30, 1984 and reported his injury to Assistant Foreman F. H. Pollard. Claimant also requested that he be allowed to see a Company doctor due to what he described as a recurrence of an injury dating back to June 23, 1979. Arrangements were made for an appointment with a Company physician for February 1, 1984, after which he was required to complete the Carrier's standard Personal Injury Report.

On February 7, 1984 Claimant was cited for formal Investigation, notice of which reads in part:

> "Please arrange to be present at a formal investigation with you as Principal, which will be held at 9:00 a.m., Friday, February 17, 1984.
>
> The investigation will be conducted in Room 212 located in the Tampa Transportation Center, 5656 Adamo Drive, Tampa, Florida.
>
> The purpose of the investigation is to develop facts and determine your responsibility, if any, in connection with report that you injured your left knee on January 27, 1984, and did not report it until January 30, 1984.
>
> You are charged with violating that part of Rule 10 of the Safety Rules for Mechanical Department Employees, which states:
>
> 'Employes must report promptly to supervisor any personal injury occurring on duty or on Company property . . . .'"

Claimant was also advised that he could by his own arrangement have witnesses present who had knowledge of the matter being investigated, that he could be represented in accord with the provisions of the Controlling Agreement and that at the close of the Investigation his personal record as it relates to personal injuries and as it relates to discipline would be reviewed.

At the request of the Employes the Investigation was postponed and held on date of February 24, 1984. The Claimant was represented by the General Chairman and the Local Chairman. He called no witnesses. The Carrier called two witnesses but neither testified.

The Investigation was held as scheduled and on April 4, 1984, Carrier advised the Claimant that account not making a prompt report of this injury he was being assessed a twenty day suspension to begin Tuesday, April 10, 1984 and ending Sunday, April 29, 1984, both dates inclusive.

The Employes contend that the Claimant believed that this was merely "the symptoms of an old injury" and that accordingly the Claimant was under no obligation to report the rock incident until he became aware of its significance relative to an old injury and further that "he obviously thought that he had merely aggravated an existing problem with his knee which had already been reported."

We note, in part the following transcript testimony, page 16, Claimant's Representative questions him:

"Q. On January 27, 1984, were you walking outside between the, well, I guess the south side of the shop, about 7:30?

"A. Yes, sir.

"Q. Is this area paved?

"A. Yes.

"Q. After stepping on the rock, which, caused you to twist your knee, did you experience more pain in your left knee and did it later on that night or the next day swell up?

"A. Yes.

"Q. Did you feel that this was just simply an aggrevation (sic) of the old injury and it would get better soon with self-treatment and would give you no problems?

"A. I did."

Going back to page 10 we note the following transcript testimony, Hearings Officer questions the Claimant:

"Q. During your tour of duty, that is from 3:30 p.m. until 11:30 p.m., while working your assignment as a Machinist at the Uceta Enginehouse, did you step on a rock and turn your left knee?

"A. Yes, sir.

"Q. Alright, when you turned your left knee, did you experience pain?

"A. Yes.

"Q. Sir?

"A. Yes, sir.

"Q. What degree of pain?

"A. Well, bending over, it was already hurting from a previous injury. It was, it just seemed to aggrevate (sic) it."

All of this testimony indicates that the Claimant by his own testimony had injured or reinjured his knee on January 27, 1984. He apparently noticed the pain immediately, he did not report it to the Carrier until three days later. His Claim that he thought it was a mere aggravation to an old injury is irrelevant as we fail to see any difference, at least in this case, between an aggravation to an old injury or a reinjury to an old injury. We also note that Claimant has had eighteen injuries in sixteen years. He of all people should know the necessity of making a prompt report of all injuries. If the injury turns out to be not serious, no harm is done, if the injury turns out to be serious then prompt medical attention can be administered. Carrier's Rules on this matter are not unreasonable. We believe they are very necessary and reasonable. It is clear that Claimant did violate this necessary and reasonable Rule. We will deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of October 1986.