

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

(International Association of Machinists and  
( Aerospace Workers  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

1. That CSX Transportation, Inc. violated Rule 30, but not limited thereto, of the controlling agreement when it unjustly suspended Machinist R. B. Lewis for 10 working days beginning March and ending March 20, 1987.

2. That accordingly, CSX Transportation be ordered to reimburse Mr. Lewis for all pay and benefits lost as a result of said suspension and remove all reference to the charges from his 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, while repairing a piece of roadway equipment experienced a slight burning sensation in his abdominal area. Because he had recently been treated for an infection in the groin area he passed the matter off as discomfort associated with the infection. Nine days after the incident Claimant visited his physician wherein it was discovered that he had suffered a hernia. Three days after becoming aware of the hernia Claimant reported his injury to Carrier.

Claimant was charged with violating Rule 62 alleging, a failure to report his injury immediately. An Investigation was conducted on the charge and when it was concluded a ten day suspension was assessed.

The primary thrust of the Organization's case before this Board, seeking to have the discipline modified, is that Claimant was really unaware that he had injured himself until he visited his doctor 12 days after the incident. This occurred after business hours on a Friday and he was unable to contact any one until the following Monday. Thus, he was in compliance with Rule 62 in that he notified the Carrier of the injury when it was first possible to do so following his awareness of the matter.

Awards of this Board are legion in number holding that a Carrier's requirements insisting upon immediate reporting of injuries are proper and well intentioned for the both the interest of the injured employee and the interest of the Carrier. Awards have also held that the degree of pain experienced at the time of the injury are not decisive on whether the matter had ought to be reported or not, all injuries must be reported when they occur. There are also Awards that hold that an employee may not invoke his own judgment on what constitutes a reportable injury. Thus, it is clear that an employee experiencing any injury must report the matter at the time or subject himself to possible discipline for not doing so.

In this matter Claimant suggests that he reported the injury as soon as he was aware of it. We don't think so. For one thing at the time the injury was to have occurred Claimant was engaged in manipulating a differential ring gear and pinion, weighing approximately 100 pounds, into an Electramatic Tamper. While in the process of aligning the differential into a confined area he states that he experienced a burning sensation, similar to a bee sting, in his lower abdominal area. While he was not sure, and may have suspected that the pain was the result of a preexisting infection, reasonable conduct would have been to suspect an injury resulted from awkward manipulation of a 100 pound differential and to report the incident immediately.

Accordingly, the discipline will not be disturbed.

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 10th day of August 1988.