

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12571
Docket No. 12502
93-2-92-2-20

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"DISPUTE - CLAIM OF EMPLOYEES

1. That the Union Pacific Railroad Company (hereinafter referred to as Carrier or Company) violated Rule 32 of the Current Controlling Agreement between the International Association of Machinists and Aerospace Workers and the Union Pacific Railroad Company dated June 1, 1960, when it harshly and unjustly placed a letter of discipline, dated April 12, 1991, on the personal record of Machinist E. L. Matlock (hereinafter referred to as Claimant) account his personal injuries.

RELIEF REQUESTED

1. That the Union Pacific Railroad company remove the personal record of Machinist E. L. Matlock the April 12, 1991, letter of discipline and clear his service record of all references to the incident."

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.

On April 12, 1991, the Carrier sent a letter to the Claimant in which it documented a personal safety conference he attended on April 11, 1991. The letter showed that the Claimant's personal injury record was discussed and it explained how he could avoid being injured in the future. The letter also indicated that a safety training session would be designed specifically tailored to the Claimant's needs.

The Organization strongly protests the placement of the April 12 letter in the Claimant's personnel record file because it can be construed as discipline for which the Claimant has not had a fair and impartial investigation. However, the Board finds no language in the letter which states that the Claimant has committed any infraction of a safety rule. Such a statement could trigger legitimate concern with respect to the employee's right for an investigation.

While the Organization's point is clearly understandable, the Agreement does not prohibit the Carrier from documenting its efforts to properly train and counsel employees with respect to safety matters. It is in each party's clear interest to advise and train employees with respect to safe work habits on the job.

In the instant case, the Carrier may document these efforts to show what action it has taken to make the Claimant aware of his safety obligations. It also follows that such documentation may not be used at a later date to raise the level of discipline in the event the Claimant is found to have committed rule infractions after a fair and impartial hearing.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 8th day of September 1993.