

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12740
Docket No. 12593
94-2-92-2-125

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(and Aerospace Workers
(
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway Company)

STATEMENT OF CLAIM:

- "(1) That, in violation of the current agreement, CSXT (Former Chesapeake & Ohio Railway Company) arbitrarily disciplined Machinist B. L. Myers by unjustly assessing a thirty (30) day actual suspension. The suspension was effective March 2, 1992.
- (2) That, accordingly, CSXT be ordered to compensate Machinist B. L. Myers thirty (30) days' pay at the pro-rata rate of pay as of March 2, 1992, and that his record be cleared immediately."

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

Claimant is employed by Carrier as an Equipment Mechanic. On October 17, 1991, Claimant reported to his Supervisor that he stepped in a hole in Parsons Yard and injured his left knee. He was offered medical treatment, but refused it. Later in the month, Claimant went to his personal physician and underwent orthoscopic surgery on both knees. On February 12, 1992, Claimant presented Carrier's Claim Agent with a bill for surgery on his right knee, citing the date of injury as October 10, rather than October 17. Since Claimant was not able to explain away the confusion about which knee or whether both knees were injured and on what day his injury occurred, Carrier preferred the following charge against him:

"You are directed to attend an Investigation to be held in the conference room, at 2600 Parsons Ave., Columbus Ohio, at 10:00 A.M. Thursday, March 12th. This Investigation is to determine your responsibility, if any, on the charge of falsifying a personal injury which allegedly occurred on October 17, 1991.

You are further charged with making false statements concerning matters under Investigation during an interview conducted by Carrier's Claim Agent O. O. McClung on February 12, 1992 at Columbus, Ohio.

You are being withheld from service pending the outcome of the Investigation.

Your personal record will be reviewed at the conclusion of the Investigation.

Please arrange for any duly authorized representative and/or witness you may desire to have present."

A Hearing into the matter was held as scheduled on March 12, 1992. As a result of that Hearing, Claimant was found guilty as charged and assessed a 30-day suspension. A transcript of the Hearing has been made a part of the record. A review of the record reveals that Claimant was afforded a full and fair Hearing and was guilty as charged. This Board concludes, based on the record, that Carrier did not act in an arbitrary or capricious manner in this instance and that a 30-day suspension is not excessive.

AWARD

Claim denied.

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 13th day of September 1994.