

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13081

Docket No. 12919

96-2-94-2-65

The Second Division consisted of the regular members and in addition Referee John J. Mikrut, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers (System Council No. 15, AFL-CIO
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(Duluth, Missabe and Iron Range Railway Company

STATEMENT OF CLAIM:

- "1) Under the current and controlling Agreement, Mr. R. VanDell, Hostler Helper, Proctor, Minnesota was unjustly dealt with when suspended for a period of ten (10) days (September 17, 1993 through September 28, 1993), following a hearing held on August 26, 1993.
- (2) That accordingly, the Duluth, Missabe and Iron Range Railway Company be ordered to compensate Mr. Van Dell for all time lost at the pro rata rate and the mark removed 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 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.

On August 18, 1993 the Claimant reported for service as Hostler Helper working the 11:00 P.M. to 7:00 A.M. shift at the Proctor diesel facility. On that day, he was assigned to fuel, sand, supply and clean locomotives and to break up and rebuild locomotive consists.

At approximately 11:15 P.M., he sustained a minor personal injury while disconnecting the independent airbrake hoses on locomotives 201 and 216. The injury that he sustained was a minor skin abrasion caused by particles being projected against his skin when he negligently forgot to turn off the air valve prior to breaking the air hoses. In the Claimant's words, he was sandblasted. He dutifully filled out an injury report.

Consequently, on August 19 the Carrier noticed a formal Investigation for August 26, 1993 to determine whether the Claimant violated Rule 42 of the Rules of the Locomotive Department. Rule 42 requires a specific procedure when uncoupling air hoses. It requires an employee to first close both angle cocks, then take a firm grip on the hose coupling and apply upward pressure. Next, the employee should break the connection gradually to reduce pressure in the hose before uncoupling completely. Finally, the Rule advises the employee to turn his or her face away from the air hose connections as the pressure is being released.

Based on the information developed at the Investigation, the Carrier decided to suspend the Claimant for 10 days between September 17 and September 28, 1993 for failing to follow the uncoupling procedure established in Rule 42.

The Organization basically argues that the assessment of a 10-day suspension is excessive and an abuse of managerial discretion because, in this case, the Claimant merely suffered a minor skin abrasion, which he dutifully reported as required by the Carrier.

The Organization also contends that the Claimant did not wilfully violate Rule 42, because he was attempting to service and reorganize an extraordinary number of consists that night. The Claimant's haste, according to the Organization, was caused by his extensive work load that evening.

The Carrier argues that an employee's compliance with Safety Rules is necessary in an inherently hazardous industry, such as railroading.

Consequently, the Carrier urges the Board to uphold the 10-day suspension despite the fact that the Claimant suffered only minor injuries because of the importance of Safety Rules in the railroad industry. After considering the parties' arguments, we find that the Claimant did, in fact, violate Rule 42, as charged. Claimant admitted during his August 26, 1993 Investigation that he did not follow the procedures established in Rule 42, because prior to breaking the hose coupling he negligently failed to close the air valve.

Next, we find that the Carrier's 10-day suspension is warranted in this matter. The Carrier correctly argues that an employee's compliance with reasonable Safety Rules is necessary to both protect the employee and to limit the Carrier's legal exposure.

Given the hazards inherent in railroading, the Carrier would be remiss if it was not vigilant in enforcing reasonable Safety Rules up to the point of assessing a two-week suspension even for an employee's negligent violation of the Rule.

Consequently, we must deny this claim.

AWARD

Claim denied.

ORDER

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 9th day of December 1996.