

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13671

Docket No. 13542

02-2-00-2-19

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood Railway Carmen Division
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rule 13, when they arbitrarily assessed Ty Jarret with a ninety (90) working day suspension as a result of an investigation held on June 8 and 11, 1999.
2. That the Springfield Terminal Railway Company failed to meet the procedural time limits provided for in Rule 13.4 of our Agreement.
3. That accordingly, the Springfield Terminal Railway Company be ordered to compensate Carman Ty Jarret in the amount of eight (8) hours pay for each workday he was withheld from service commencing July 12, 1999. The Carrier should also reinstate Carman Ty Jarret for any additional and all other wages he may have lost and be ordered to remove the correspondence in regards to this investigation from his personal record and file.”

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.

After Investigation, the Claimant received a 90-day suspension by letter dated July 7, 1999, in part, as a result of his failure to immediately notify his Supervisor of an injury. By letter dated September 3, 1999, the Carrier reduced the suspension to time served - i.e., an approximate two-month suspension.

The record shows that on April 21, 1999, while on duty, the Claimant burned the back of his hand. The Claimant did not report the injury until the following day.

Rule GR-E provides that “[i]n all cases when a personal or property accident occurs, however slight, the Chief Train Dispatcher must be notified immediately.” Whether the Claimant thought the injury was not serious is irrelevant. Injuries must be reported “[i]n all cases . . . however slight.” Failure to “immediately” report the injury in accord with the Rule hinders the Carrier’s ability to investigate the cause of the injury, make arrangements to provide immediate care and prevent similar injuries in the future. The Claimant’s waiting until the next day to report the injury did not meet his obligation to “immediately” report the injury. The Claimant failed to meet his reporting obligations. Substantial evidence therefore supports the Carrier’s determination that the Claimant engaged in misconduct.

However, we find that under the circumstances the imposed approximate two-month suspension was excessive and arbitrary. We believe that a 21-day suspension will get the message through to the Claimant that he must comply with the Carrier’s Rules - particularly the Rule requiring that employees report injuries “immediately,” and “however slight.” The Claimant shall therefore be made whole less the consequences of a 21-day suspension.

The Organization’s procedural arguments are not persuasive. The Carrier’s further arguments that the Claimant did not properly and safely perform his duties and

that he was dishonest also do not change the result. Even assuming these added allegations are supportable, the suspension we have imposed in this case would not be increased by these additional findings. The purpose here is get the Claimant to understand that he must comply with the Carrier's Rules. Under the circumstances, a 21-day suspension will accomplish that end.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 11th day of February, 2002.