

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19298
Docket Number MW-19570

Joseph E. Cole, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(The Atchison, Topeka and Santa Fe Railway Company
(- Coast Lines -

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Section Laborer L. E. Valley for "improper reporting of injury" was improper, without just and sufficient cause and wholly disproportionate to the offense with which he was charged (System File 130-187-32).

(2) Section Laborer L. E. Valley be reinstated with seniority, vacation and all other rights unimpaired and that he be compensated for all wage loss suffered in accordance with Section 6 of Article VI.

OPINION OF BOARD: We believe that it is common knowledge that any employee in any hazardous employment is entitled, and gets, certain benefits if the employee is injured in service, without regard to negligence or fault.

Prompt reporting of injuries, whether real, suspected, or imaginary is extremely important to the employer because:

1. The employer is entitled to mitigate his damages by having the employee treated promptly, so that an earlier return to work is possible and a valued experienced employee may return to his job.

2. The carrier has a duty to its stockholders and its employees to correct any condition that causes injuries if such a condition may be corrected.

Prompt reporting of injuries is necessary and extremely important. It is set forth in the rules and it is a reasonable requirement. In the matter at hand, the time elapsed before reporting was 12 days. We think that this is far in excess of a reasonable time.

We have carefully examined the transcript of the hearing. The only substantial matter before the hearing board was whether Claimant thought he had been injured, and whether he promptly notified his superior as required by the rules and the agreement.

The testimony of the claimant shows that he thought that he had been injured. It further showed that it would have been easy to inform his immediate superior if, not at once, at the safety meeting on the 26th day of January, which was five days after the injury. He did not comply with the rules and fill out form 1421 until 12 days thereafter. The basis of these facts are the testimony of the claimant. I do not impute dishonesty to the claimant.

We believe that the claimant did indeed think that he was injured on January 21. His testimony shows that he told his fellow employees that he was injured. The reason for not reporting the suspected injury according to the rules can be known only to the Claimant.

Claimants testimony shows that he knew the content of the rules, and we see no reason to dispute this.

It is of the greatest importance for the Employer to know of any injury, whether real, suspected, or imaginary, that has happened to any of its employees while on duty. An employee may not invoke his own judgment of what constitutes a reportable injury. He must report all of them, according to the rules, whether real, suspected, or imaginary.

The claimant was dilatory in reporting an injury.

The hearing was fair and impartial, and the penalty was not arbitrary or capricious.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.