

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24171
Docket Number MW-24361

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { **Brotherhood of Maintenance of Way Employees**
Terminal Railroad Association Of St. Louis

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

(1) ~~The five~~ (5) days of suspension imposed upon Laborer R. O. Jackson, Jr. for alleged violation of 'TRRA Safety Rules 2, 33(d) and 33(e)' was without just and sufficient cause and on the basis of unproven charges (System File TRRA 1980-21).

(2) The claimant's record shall be cleared and he **shall** be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant ~~was~~ notified of a hearing concerning a **violation** of certain safety rules which **resulted** in a personal injury to himself.

Subsequent ~~to~~ the Investigation, the Claimant was found to have **violated** certain **specified** safety **rules** and he was **assessed** a five (5) day **suspension**.

The claimant concedes that on the day **in** question **his** trouser leg caught in a spike and when he tripped he sprained his ankle or foot.

The safety rules of the Carrier prohibit wearing of clothing that may constitute a safety hazard, and **they** also caution the employees to be **alert**, avoid dangerous situations, etc.

There is evidence in the record, however, to lead one **to the** conclusion that the trousers **which** were worn by the Claimant on the day in question were "so long that he was **walking** on the bottoms of them" and, in fact, the trousers were longer than safety considerations dictated. _

This Board has noted on **numerous** occasions that it is not incumbent upon us to **make** credibility **determinations**. Rather, our function is limited to a review of the record to **assure** that **there** is sufficient evidence present. 25 in the record **which** will support the **conclusions** arrived at by the Carrier.

Under all of the circumstances, then, we are of the view that the Carrier has sustained its burden of proof and we will deny the claim.

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 Employees involved in this dispute are respectively Carrier and Employees 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

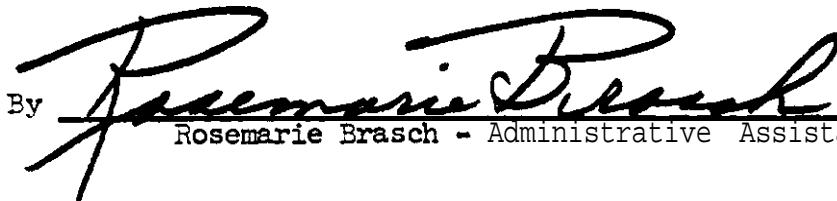
That the Agreement was not violated.

A W A R D

Claim denied.

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

ATTEST: Acting **Executive** Secretary
NATIONAL RAILROAD ADJUSTMENT BOARD

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this **15th day of February 1983.**

