

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24465**
Docket Number **SG-24349**

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad **Signalmen** on the Southern Pacific Transportation company (Pacific Lines):

That Signalman R. R. **Dunivin** be **reimbursed** for all **time** lost at pro rata plus overtime rate as a result of investigation held August **19, 1980** (90 days), and that **Mr. Dunivin's** personal record be cleared of any notations as a result of this investigation." (Carrier File: **MofW-A-ORE-0-27**)

OPINION OF BOARD: This matter involves a question of **whether** or not the Claimant's discomfort and resulting disability to his knee was or was not a job-related injury and, if so, whether the Claimant failed to give Carrier prompt notice of such injury.

Following an investigative hearing, which was conducted in a fair and proper manner, the Carrier found the Claimant in violation of the **following** rules:

"Rule M: Every personal injury suffered by an employe, and **any** injury to another employe or person, of which an employe has personal knowledge, must be reported without delay to his **immediate** superior prior to completion of tour of duty.

Employe and his immediate superior must thereafter, without delay, and prior to completion of tour of duty, complete required reports on prescribed **forms** and furnish other required statements to proper authority."

"Rule 801: **Employes** will not be retained in the service who are ***** dishonest *****.

Any act of ******* willful disregard or negligence affecting the interests of the Company is sufficient cause for dismissal and must be reported."

"Rule 802: Indifference to duty, or to the performance of duty, will not be condoned."

As a result, the Claimant was assessed a **90-day** disciplinary suspension. Upon review of the extensive record, the Board finds that the Claimant failed to advise the Carrier and complete the necessary **forms** "without delay", as required by Rule M, in support for his allegation that his **injury** was **job-related**. In assessing this discipline., however, the Board finds that the

Carrier responded with an excessively harsh penalty. Claimant sought medical attention and reported off duty on the day following the alleged injury. The Carrier suffered no real loss owing solely to the tardy **filing** of an accident report by the Claimant.

In view of this, the Board finds that the penalty was excessive and should be reduced to a suspension of 60 days.

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 discipline **was** excessive.

A-W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD **ADJUSTMENT** BOARD

By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago**, Illinois, this **14th day of July 1983**.

