

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24946
Docket Number MW-25129

Thomas F. Carey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Consolidated Rail Corporation
(New York, New Haven & Hartford Railroad Company)

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

(1) The discipline (reprimand) imposed upon Trackman E. A. Camara for alleged violation for the injury he sustained and for alleged 'violation of Rules 3361 and 3362 of the Conrail Safety Rules S7-C on April 30, 1981' was without just and sufficient cause and on the basis of unproven charges (System Docket No. NH-91).

(2) The reprimand imposed upon the claimant shall be expunged from his record."

OPINION OF BOARD: This is a discipline case in which it is alleged that the Claimant, while moving ties to the work area at the "South side of Route 28 Crossing in Hyannis," experienced a pain in his arm, requested and was permitted to receive medical attention.

A reprimand was later imposed upon the Claimant.

Subsequently, the Claimant was instructed to appear for a hearing to determine his responsibility, if any, for a personal injury to himself and for his "alleged violations of Rules 3361 and 3362 of the Conrail Safety Rules S7-C...."

The record indicates the hearing was postponed twice until June 2, 1981 and then held in absentia. The union representative was initially present and was prepared to represent Claimant.

The Claimant failed to appear for a hearing on three (3) separate occasions, and his failure to furnish a defense leaves unrefuted and unchallenged the testimony of the witnesses, which was credited by the Conducting Officer.

The record of this case supports Carrier's determination of responsibility and issuance of discipline for actions of the Claimant in violation of its Rules.

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 Employes involved in this dispute are respectively Carrier and Employes 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

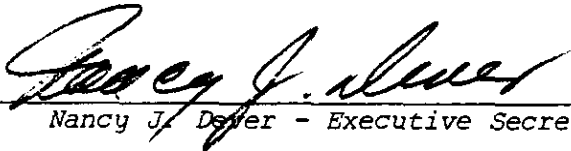
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1984.

