

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24981
Docket Number MW-24772

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Consolidated Rail Corporation

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

(1) The discipline (thirty demerits) imposed upon Trackman E. Lopez for alleged "Violation of Safety Rule 3361 (E, F, and G)" on November 16, 1979 was arbitrary, capricious and on the basis of unproven charges (System Docket No. 576).

(2) The thirty demerits imposed upon the claimant shall be expunged from his record.

OPINION OF BOARD: Claimant, Trackman E. Lopez was charged with an "Alleged violation of Safety Rule 3361 (E, F, and G) ... on 11/16/79 ... which resulted in a personal injury to the lower back". An investigation was held on March 12, 1980, and the Carrier subsequently gave Claimant 30 demerits.

A review of the record before this Board establishes that Claimant bent his back instead of his knees when lifting the rail in question. This was in violation of Rule 3361. Therefore, there was substantial evidence to sustain Carrier's decision to discipline Claimant, and the penalty of 30 demerits was appropriate and reasonable.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of September 1984.