

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(The Chesapeake and Ohio Railway Company  
(Southern Region)

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

(1) The thirty (30) days of suspension imposed upon Trackman P. J. Ward for alleged '... falsification of Personal Injury Report, CJ-68....' was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement. (System File C-D-3105/MG-5511).

(2) The Claimant's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant informed Carrier that he sustained an injury to his back while throwing a switch on September 11, 1985, working on the Piney Creek subdivision. He completed a Personal Injury Report to that effect. Carrier maintained that Claimant falsified the report. Following an investigation, he was issued a thirty-day suspension.

The Board has reviewed the entire record of this case, including the transcript of the investigation. That review indicates the presence of sufficient probative evidence brought forth at the hearing to support the charge. In both written and oral reports, fellow employees indicated that Claimant had complained about his back on the morning of September 11, 1985, as the result of working under his trailer, repairing underground water lines, the previous day.

As the Board has noted in Third Division Award 25527, "An accurate, truthful accident report is of extreme significance. A false report not only contributes to adverse financial liability for the Carrier, but also impedes remedial efforts necessary to prevent further injury to fellow workers."

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Award No. 27162  
Docket No. MW-27485  
88-3-86-3-744


Given all the facts of this case, the discipline imposed was warranted.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1988.