

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

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

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (SPTC(WL)):

Claim on behalf of B. J. Maxey for payment of all lost wages and benefits, from October 7 through October 31, 1986, account of Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 59, when it found him guilty of alleged rule violation." Carrier file SIG-LA-86-M."

FINDINGS:

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

The carrier or carriers and the employee 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.

During the afternoon of October 6, 1986, Claimant, a Signal Maintainer with sixteen years of service, helped a maintenance of way gang change out stock rail at a switch near Los Nietos, California. As Claimant was reinstalling the front rod to the switch, he experienced a pain in his lower back. He did not report the injury to the appropriate Carrier official because the pain was faint and he wanted to finish the job (so traffic could travel over the switch). Claimant's back pain became progressively worse so that by the next morning, he could hardly get out of bed. He told the Assistant Signal Supervisor about the injury at approximately 7:00 A.M. on October 7, 1986.

The Carrier presented substantial evidence at the October 22, 1986 Investigation that Claimant failed to report his October 6, 1986 on duty personal injury to the appropriate Carrier official by the first means of communication in violation of Carrier Rule E. Prompt reporting of on duty personal injuries is a rule which must be strictly enforced to enable the Carrier to provide injured employees with necessary medical care, to permit the Carrier to

investigate the accident to mitigate its liability exposure, to allow the Carrier to correct any hazardous condition, and to prevent the employee from continuing to perform service when his duties might aggravate his condition. Third Division Award 25162. The rule applies to minor as well as major injuries. In this case, Claimant fully realized that he had injured himself while working on the switch. He should not have resorted to self-help by making his own judgment on whether or not his injury was severe enough to warrant medical treatment. By continuing to work, Claimant may have exacerbated his back muscle pull.

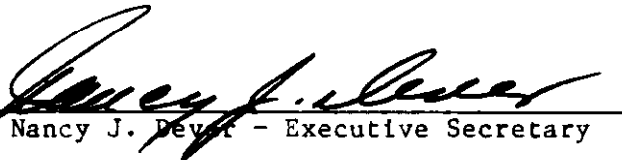
While the Carrier proved that Claimant violated Rule E, this Board will reduce the suspension from twenty-five days to five days for two reasons. First, Claimant has accumulated sixteen years of service. Second, the Carrier also charged Claimant with violating Rule 607, yet the record does not contain any evidence that Claimant carelessly executed his duties or otherwise caused his own injury.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 16th day of October 1990.