

Form **RECEIVED** NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

JAN - 5 1995

Award No. 30619  
Docket No. SG-30765  
94-3-92-3-521

G. L. HART

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(CSX Transportation Inc. (former Louisville and  
( Nashville Railroad Company)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSXT, Inc. (Former L&N Railroad):

Claim on behalf of F. W. Wolf, as follows:

The Carrier violated the Agreement, particularly the Discipline Rule, when it assessed Claimant a letter of reprimand without proving its charges contained in the notice of December 28, 1990.

Carrier should now be required to remove any reference of the above from the Claimant's personnel file. Carrier File 15 (91-42). GC File No. 91-INV-13-01. BRS File No. 8632-CSXT(L&N)."

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 employee 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 a severe winter storm on December 23, 1990, Claimant, while working to repair a frozen power switch, slipped off his feet and landed on his right side. In his subsequent Investigation he testified that at the time of the accident he "had terrible pain." Thinking that he "just pulled a muscle or something" he continued working. A short time later, Claimant met with a Trainmaster to talk about a problem in the classification yard. In that meeting the slipping incident and the earlier occurrence of "terrible pain" was not mentioned. The next day, December 24, Claimant called his supervisor and advised him that he had been injured the previous night. On December 26, Claimant filled out a personal injury report and was taken to see a doctor. On December 27, Claimant saw his own doctor who advised that he not work until the pain subsided. Claimant was charged with a violation of Carrier Rules when he failed to properly report the personal injury that occurred on December 23, and with being accident prone. Following an Investigation on this charge a letter of reprimand was placed in Claimant's personnel file. This claim seeks to have the letter of reprimand removed from Claimant's file.

The Board has reviewed the Investigation transcript and concludes that adequate evidence was developed in the Hearing to support the charges placed against Claimant. There is no question that he did not report slipping and pulling a muscle at the first opportunity he had to do so. Further, no explanation is offered as to why he did not mention the incident to the Trainmaster when he was with him shortly after the accident. Further, evidence was presented indicating that Claimant had a considerably higher accident rate than his coworkers. A sample group of employees with comparable seniority dates indicates that the average number of accidents were two, with Claimant's total being nine. Statistically, it was demonstrated that Claimant was "accident prone."

Upon review of the entire record the Board concludes that the discipline assessed should not be modified.

AWARD

Claim denied.

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of December 1994.