

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21473
Docket Number CL-21314

William G. Caples, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7944)
that:

(a) The Southern Pacific Transportation Company violated the current Clerks' Agreement on October 16, 1974, when it assessed sixty demerits against the personal record of Henry Howard, Jr. following investigation at which he was tried for allegedly failing to comply with Rule "M" of its General Rules and Regulations; and

(b) The Southern Pacific Transportation Company shall now be required to purge the personal record of Henry Howard, Jr. respecting the sixty demerits assessed thereto as set forth in paragraph (a).

OPINION OF BOARD: Claimant entered Carrier's service on October 28, 1968, and at the time this dispute arose was regularly assigned to a position titled Lead File Clerk.

The instance out of which this claim arose was on August 16, 1974 when Claimant alleged he sustained a back injury when lifting boxes in the file room. No notice of the alleged injury was given the Carrier until September 19, 1974 at which time he went to the Station Clerk and advised her he had sustained an injury "approximately one month ago." Thereafter Claimant was referred to a Mr. Vallejo in the Maintenance of Way Department who aided him in filling out an "Employee's Report of Accident." The report was filed on September 19, 1974.

By letter dated September 23, 1974 Claimant was notified to be present on October 2, 1974 for formal investigation in connection with Claimant's "alleged failure to report without delay to your immediate supervisor and make out written report to Superintendent relative to alleged personal injury sustained" by Claimant on "August 16, 1974 while employed as Lead File Clerk." The letter advised such failure may involve a violation of the tenth paragraph of Rule "M" reading:

"Each personal injury suffered by an employe, and any injury to another employe or person, of which an employe has personal knowledge, must be reported without delay to his immediate supervisor; and written report completely and correctly made must thereafter be promptly mailed to Superintendent."

for which occurrence Claimant was charged with responsibility.

Subsequent to the investigation Carrier advised Claimant by letter dated October 16, 1974:

"Evidence adduced at formal investigation ... established your responsibility for failure to report an alleged personal injury without delay to your immediate supervisor on August 16, 1974."

and, further, that failure to discharge the responsibility was found to be a violation of Rule "M" (which has been hereinbefore quoted) by reason of which Claimant's discipline record was assessed sixty (60) demerits.

The position of the Claimant is that when he learned "that it was necessary to file an accident report," he "did so at once and the penalty assessed therefor, was not justified" and a reversal of the order of assessment of the demerits is asked.

It is well established by this Board that disobedience of Carrier's Operating and Safety Rules is an offense which merits discipline. The requirement of prompt filing of accident reports is a rule of such long standing its necessity requires no citation. See Awards 16023, 17900, 19298 and 21041.

The record is clear that there is substantial evidence that the rule was in existence; the Claimant had knowledge of it and failed to comply with it. The Carrier's decision as to guilt is supported by the record. The Carrier assessed a penalty which does not appear to be unreasonable, arbitrary or capricious. Awards 9449, 10429, 12811 and 13168.

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 Employees involved in this dispute are respectively Carrier and Employees 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.

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By Order of Third Division

ATTEST: *A. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1977.