

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24171
Docket Number MW-24361

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { (Brotherhood of Maintenance of Way Employes
{ (Terminal Railroad Association of St. Louis

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

(1) The five (5) days of suspension imposed upon Laborer R. O. Jackson, Jr. for alleged violation of 'TRRA Safety Rules 2, 33(d) and 33(e)' was without just and sufficient cause and on the basis of unproven charges (System File TRRA 1980-21).

(2) The claimant's record shall be cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant was notified of a hearing concerning a violation of certain safety rules which resulted in a personal injury to himself.

Subsequent to the investigation, the Claimant was found to have violated certain specified safety rules and he was assessed a five (5) day suspension.

The Claimant concedes that on the day in question his trouser leg caught in a spike and when he tripped he sprained his ankle or foot.

The safety rules of the Carrier prohibit wearing of clothing that may constitute a safety hazard, and they also caution the employes to be alert, avoid dangerous situations, etc.

There is evidence in the record, however, to lead one to the conclusion that the trousers which were worn by the Claimant on the day in question were "so long that he was walking on the bottoms of them" and, in fact, the trousers were longer than safety considerations dictated. —

This Board has noted on numerous occasions that it is not incumbent upon us to make credibility determinations. Rather, our function is limited to a review of the record to assure that there is sufficient evidence presented in the record which will support the conclusions arrived at by the Carrier.

Under all of the circumstances, then, we are of the view that the Carrier has sustained its burden of proof and we will deny the claim.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
NATIONAL RAILROAD ADJUSTMENT BOARD

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of February 1983.

