

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24411  
Docket Number MW-24523

William G. Cyles, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees  
{ Consolidated Rail Corporation (formerly New York,  
{ New Haven & Hartford Railroad Company)

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

(1) The discipline (reprimand) imposed upon Carpenter F. P. Tokarczyk for alleged responsibility in connection with an injury sustained by him and alleged violation of 'Safety Rule 3361(c) and (d)' was arbitrary, capricious, unwarranted and on the basis of unproven charges (System Docket No. MH-61).

(2) The reprimand referred to in Part (1) hereof shall be expunged from the claimant's record."

OPINION OF BOARD: An investigation was held on September 17, 1980 in connection with the charge:

"To determine your responsibility, if any, for your personal injury which occurred on June 18, 1980...To determine your responsibility, if any, for your alleged violation of Safety Rule 3361, c., d., f. and g."

The Carrier as a result of the investigation found the Claimant guilty and imposed the discipline of a reprimand upon the Claimant.

The issue before this Division is twofold: (1) was the Carrier able on the record before us, including a transcript of the testimony on the investigation, to establish guilt of a violation of the stated rule and, (2) if so, was discipline assessed reasonable or was it arbitrary, capricious or unwarranted.

There is no doubt from the record the Carrier was able to and did sustain its burden of proof.

The discipline assessed was certainly warranted given the Carrier's duty to enforce safety rules strictly.

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 Employee involved in this dispute are respectively Carrier and Employee 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 June, 1983.