

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24465  
Docket Number SG-24349

Herbert L. Marx, Jr., Referee

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

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

That Signalman R. R. Duminin be reimbursed for all time lost at pro rata plus overtime rate as a result of investigation held August 19, 1980 (90 days), and that Mr. Duminin's personal record be cleared of any notations as a result of this investigation." (Carrier File: MofW-A-ORE-0-27)

OPINION OF BOARD: This matter involves a question of whether or not the Claimant's discomfort and resulting disability to his knee was or was not a job-related injury and, if so, whether the Claimant failed to give Carrier prompt notice of such injury.

Following an investigative hearing, which was conducted in a fair and proper manner, the Carrier found the Claimant in violation of the following rules:

"Rule M: Every personal injury suffered by an employee, and any injury to another employee or person, of which an employee has personal knowledge, must be reported without delay to his immediate superior prior to completion of tour of duty.

Employee and his immediate superior must thereafter, without delay, and prior to completion of tour of duty, complete required reports on prescribed forms and furnish other required statements to proper authority."

"Rule 801: Employees will not be retained in the service who are \*\*\* dishonest \*\*\*.

Any act of \*\*\* willful disregard or negligence affecting the interests of the Company is sufficient cause for dismissal and must be reported."

"Rule 802: Indifference to duty, or to the performance of duty, will not be condoned."

As a result, the Claimant was assessed a 90-day disciplinary suspension. Upon review of the extensive record, the Board finds that the Claimant failed to advise the Carrier and complete the necessary forms "without delay", as required by Rule M, in support for his allegation that his injury was job-related. In assessing this discipline, however, the Board finds that the

Carrier responded with an excessively harsh penalty. Claimant sought medical attention and reported off duty on the day following the alleged injury. The Carrier suffered no real loss owing solely to the tardy filing of an accident report by the Claimant.

In view of this, the Board finds that the penalty was excessive and should be reduced to a suspension of 60 days.

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 discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

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 14th day of July 1983.

