

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24548  
Docket Number MW-24816

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(Consolidated Rail Corporation  
( (former Lehigh Valley Railroad Company)

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

(1) The dismissal of Trackman E. J. Richardson for alleged 'falsification of personal injury' was unwarranted and on the basis of unproven charges (System Docket 651).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant was employed as a trackman, with about two years of service. He alleged that on August 18, 1980, he injured his finger while carrying splice bars. He reported the alleged injury to his foreman, who arranged for him to go to a hospital. X-ray at Perth Amboy General Hospital showed a fracture and a cast was applied to claimant's hand.

On August 27, 1980, claimant was instructed to attend a hearing and investigation on August 28, 1980, on the charge:

"Alleged violation of falsification of personal injury which E. Richardson, Trackman, claims occurred at approximately 9:45 AM on 8/18/80 at Perth Amboy on the Interchange Track."

The investigation was conducted as scheduled, following which claimant was dismissed from service in all capacities on September 12, 1980. A copy of the transcript of the investigation has been made a part of the record.

In the investigation substantial evidence was adduced by the Carrier in support of the charge. The evidence, shows that claimant actually injured his hand playing ball while off duty on August 15, 1980, following which he was x-rayed at St. James Hospital. Report from that hospital, made a part of the investigation record, shows that on August 16, 1980, claimant's hand was fractured, the report of the x-ray stating "There is a fracture of the neck of the fifth metacarpal with angulation." and indicates that a splint was applied to his hand.

On the record before us, there is no proper basis for the Board to interfere with the discipline imposed by the Carrier.

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

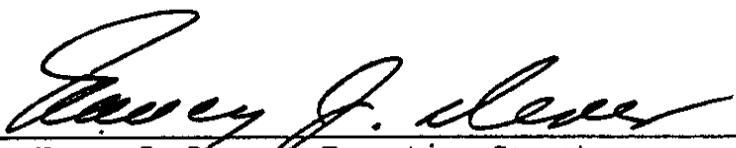
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1983

