

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25044
Docket Number MW-25040

Thomas F. Carey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(New Orleans Public Belt Railroad

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

(1) The five (5) days of suspension imposed upon Bridgeman Helper H. J. Bergeron for 'not being in possession of, and having available for use, assigned safety harness and pertinent safety equipment' on December 30, 1981 was excessive.

(2) The claimant shall be compensated for all wage loss suffered."

OPINION OF BOARD: The record indicates that a five (5) day suspension was imposed upon Bridgeman Helper H. J. Bergeron for not being in possession of, and failure to utilize, assigned safety harness and pertinent safety equipment on December 30, 1981.

Claimant has been employed by the New Orleans Public Belt Railroad for ten (10) years. He is a Bridgeman Helper at the Huey P. Long Bridge, New Orleans, Louisiana. The railroad bridge is five miles long and reaches heights of approximately two hundred thirty (230) feet at its highest point.

As a result of a fatality some eighteen months before, the issuance of the suspension to the Claimant, the Bridge Supervisors had been actively pursuing their safety program. Employees were to have their safety harness equipment in their possession in use while performing work. This was to insure their own safety and also to assist any other employee that might be in need of assistance.

The record clearly shows that on several occasions Claimant was made aware of his responsibility to have and use his safety belt harness while working. At a Safety Talk held on August 19, 1981, it was again stated that safety belts must be worn. In addition, it was also stated that anyone found not wearing the safety belt harness would be given a five (5) day suspension without pay as a first warning. In any subsequent failure to wear safety equipment, that person would be dismissed from the service of the Public Belt Railroad. It is evident from the testimony that the Claimant was fully aware of the safety regulations and the penalties involved for non-adherence.

The record supports the conclusion that the employee received reasonable notice of the company rules and that the discipline for violation of this rule was clear and consistent. These conditions were met by the Carrier in the instant case, and there is no justification to set aside the five (5) day suspension which was the announced specified penalty for infraction of this safety rule.

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 October 1984.