

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25196
Docket Number MW-25323

James Robert Cox, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(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 D. Sears for alleged violation of "Rule 3000 A&B" on October 3, 1980 was arbitrary, capricious and on the basis of unproven charges (System Docket 688).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, the charges leveled against him shall be cleared from his record and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Rule 3000 requires that an injured employee must immediately inform his immediate Supervisor of an injury even though it may appear trivial. When the person in charge is not in the immediate vicinity the injured employee must inform him, at the earliest opportunity, not later than quitting time on the day of the occurrence. The injured employee must immediately obtain medical attention.

The evidence indicates that Friday, October 3, 1980 Claimant did tell his Supervisor that while tightening bolts, his wrench kept slipping, hitting him on the left knee. Although sometime previously that day he had told the Supervisor that his back was hurting, he had informed him that he did not want to go to the doctor for treatment. The knee injury was reported about 12:00 noon. Sears was questioned before being sent to the doctor by the Assistant Supervisor at the Oak Island office and a CT226 form was completed in his presence. The form makes no reference to any back injury; only to the knee problem. After an examination by the doctor, Claimant was released to return to work as of October 6th, Monday morning. According to the Examining Doctor's records, there was no mention of a back injury October 3rd. The co-worker who took Sears to the doctor on the 3rd also stated that nothing was said regarding any back injury.

Both the doctor and the receptionist indicate that there had been no mention of the back injury until the second visit, October 7th, when Claimant complained of a back problem as well as the knee conditon. Although he said his back bothered him, Claimant worked October 6th stating that his assignment did not involve much exertion. The doctor took x-rays of his pelvis and lower back and told Claimant not to report to work but to come for treatment the following three days. After his injury Claimant called the doctor's office asking them to change their records to indicate that he had reported injuring his back October 3, 1980.

The importance of compliance with Rule 3000 A & B should not be minimized. Reporting of accidents not only allows for immediate remedial attention to the cause of the accident, but also facilitates prompt medical treatment designed to limit the extent of injury. There are, of course, other attributes to the Rule including control of spurious claims.

The record in this case supports the Carrier. Not only is there no report of a back injury mentioned on the form CT226, but no report of such an injury was given to the Assistant Supervisor, the employee who took Claimant to the doctor, or at the doctor's office. Had there been a back injury complaint on the 3rd as there was on October 7th, the doctors would have noted it on their records and, in all likelihood, subjected Claimant to x-rays that day. The Claimant's Foreman indicates that Claimant did not claim on the 3rd that he needed to see a doctor for his back. His note states only that sometime early in the morning (not at 12:00 as Claimant contends), Sears mentioned that "his back was hurting". This statement falls far short of meeting the requirement that he report having had an on-the-job injury and request medical care.

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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.