

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25334
Docket Number MW-25361

Referee Eckehard Muessig

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The National Railroad Passenger Corporation (Amtrak) -
(Northeast Corridor

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

(1) The five (5) days of suspension imposed upon Trackman M. M. Williams for "failure to wear a seat belt" on August 21, 1981 was excessive (System Docket 391D).

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

OPINION OF BOARD: Subsequent to an investigation, the Claimant was found guilty of violating the Carrier's safety rule requiring the use of a seat belt. He had been injured while riding in the front seat of a Carrier vehicle, and the Carrier found that the injury was caused by the Claimant's failure to wear a seat belt.

The Claimant admitted that he did not have the seat belt fastened about him at the time of the incident that lead to his injury. This admission was verified by the vehicle's driver. However, the Claimant asserts that the injury would not have been prevented by wearing the seat belt.

The controlling safety rule explicitly requires wearing of seat belts under the circumstances here. Moreover, on the basis of testimony adduced at the hearing, the Board finds that the Carrier's conclusion that the injury could have been prevented had the Claimant worn his seat belt is reasonable. Accordingly, a five-day suspension for violation of a fundamental safety rule is not excessive.

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.

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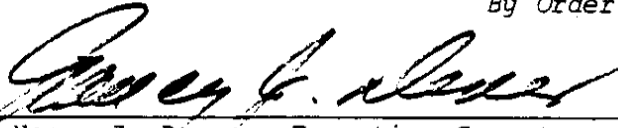
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 15th day of March 1985.