

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25527

Docket Number MW-25718

James Robert Cox, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railway Company

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

(1) The thirty (30) days of suspension imposed upon Trackman D. Hensley for allegedly "giving false information in a statement to C&O Claim Agent R. P. Shipley, Jr., on December 19, 1980 in connection with Mr. Shipley's investigation of an alleged injury to Roy A. Peters on November 26, 1980" was without just and sufficient cause and on the basis of unproven charges (System File C-D-1549/MG-3886).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Truckman, D. Hensley, was suspended for thirty (30) days for allegedly giving false information in a December 19, 1980, statement to C&O Claim Agent R. P. Shipley, Jr. in connection with Shipley's investigation of a November 26, 1980, injury to Roy A. Peters.

The Hearing was conducted December 9, 1982. The Organization notes that the Carrier through its Claim Agent heard Claimant's testimony October 26th and 27th in U.S. District Court and found that sworn testimony was inconsistent with the statement given to Shipley in 1980. They argue that since the difference in statements became known to the Carrier on that date, the Hearing was held beyond the twenty (20) day limitation specified in Rule 24-A. The official transcript of the testimony was not delivered to Carrier until November 19, 1982. It was not until then that a positive comparison of the two statements could be made and the 20-day period runs from that date.

Claimant acknowledged in his Federal District Court testimony that the prior statement given December, 1980, was untrue. Although he now claims that he did not give false information on December 19th (claiming he told a Carrier representative that the top portion of the statement was not correct) he did sign the statement, indicating that he had read it all and it was true. Moreover, prior to signing, Claimant initialed changes in the top portion without correcting any verbiage he testified later was untrue.

An accurate, truthful accident report is of extreme significance. A false report not only contributes to adverse financial liability for the Carrier, but also impedes remedial efforts necessary to prevent further injury to fellow workers. The evidence clearly established Claimant's untruthful report.

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 28th day of June 1985.

