

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25580
Docket Number MW-25716

Stanley L. Aiges, Referee

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 discipline (reprimand) imposed upon Track Foreman R. T. Green for alleged violation of "Rule #4000" was without just and sufficient cause, unwarranted and on the basis of unproven charges (System File NECBMWE-SD-501D).

(2) The reprimand mentioned in Part (1) above shall be removed from the claimant's record.

OPINION OF BOARD: Track Foreman R. T. Green was assigned to work near MP 126.3 in Lanham, Maryland on August 11, 1982. At approximately 1:00 p.m., he stepped on a board. A nail imbedded in the board punctured his shoe and the arch of his right foot. Several minutes later, Green called his immediate Supervisor's office. The Employee who answered the telephone advised him that neither of the two Supervisors was in; nor was the Clerk. At around 3:00 p.m., Green appeared at the office. His Supervisor was not present.

The following morning, Green reported the injury to his Supervisor. He was subsequently charged with a violation of Safety Rule #4000, which requires that any injury immediately be reported to a Supervisor. The Carrier issued a letter of reprimand to Green, which is the focus of this dispute.

The record reveals that Green attempted to report his injury within minutes of its occurrence. He telephoned his Supervisor. Two hours later, he sought him out. We are convinced that Green constructively complied with the thrust of Safety Rule #4000. The discipline imposed was excessive. The letter of reprimand should be removed from Green's record.

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 Employee involved in this dispute are respectively Carrier and Employee 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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1985.

