

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25618
Docket Number SG-25890

Hyman Cohen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Boston and Maine Corporation

STATEMENT OF CLAIM:

Carrier assessed excessive discipline of three (3) days' suspension following a hearing on May 3, 1983, in connection with the claimants alleged failure to comply with Safety Rule S-2 resulting in personal injury to claimant R. D. Morris, on November 16, 1982 at Wilmington Interlocking, Wilmington, Massachusetts.

Carrier should now be required to compensate claimant for all wages and benefits lost as a result of the discipline assessed and remove from his record any mention of the alleged infraction. (Carrier file SI-4-83).

OPINION OF BOARD: The Claimant was employed by the Carrier as an Assistant Signalman and works in a signal construction crew. He entered the Carrier's service in May 1980 as a Signal Helper. Following a hearing that was held on May 3, 1983, the Claimant was assessed a three (3) day suspension for his failure to comply with Safety Rule S-2 which resulted in personal injury to himself on November 16, 1982 at Wilmington Interlocking, Wilmington, Massachusetts.

On November 16, 1982, the Claimant was a member of a crew assigned to bond rail at Wilmington Interlocking, Wilmington, Massachusetts. At approximately 10:30 a.m. the Claimant and Signalman McNall removed the running wheel grinder from the main track in order to place it on the side track. While Signalman McNall began knocking the old bonds off the rail, the Claimant picked up the wheel grinder in preparation for grinding. At this point in time, the Claimant states that the shaft snapped and the wheel grinder "popped". He further indicated that the spinning motion caused his sweatshirt to be drawn into, and become entangled between the grinding wheel and the protective guard thereby pulling in his hand which was in the pocket of his sweatshirt at the time. The Claimant sustained injury to his hand. In clarifying the use of the word "popped" the Organization argues that the Claimant was holding the grinder by its handle when, for no apparent reason, the flexible drive shaft which propels the grinding wheel broke in two.

After carefully examining the evidence, the Board concludes that it is physically impossible to break the drive shaft as alleged when no resistance was applied to the grinding wheel. Moreover, without propulsion from a drive shaft, the grinding wheel would have little or no torque force. As a result, the grinding wheel would not have the capability to draw in a heavy sweatshirt, much less the Claimant's hand, and cause the injury to his hand which required over six (6) months convalescence from work. Had the Claimant exercised due care and kept the grinding wheel a sufficient distance from his body, his sweatshirt would not have gotten caught in the grinding wheel and the injury to his hand would not have occurred.

In light of the record, the Claimant violated Rule S-2 which provides, in relevant part, that "Employes must refrain from improper practices ***."

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. Sever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1985.

