

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25847
Docket Number SG-25755

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chesapeake & Ohio Railway Company
(Pere Marquette District)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pere Marquette District of The Chesapeake and Ohio Railway Company that:

"(a) Carrier violated the parties' Agreement, particularly Rule 701, when (1) Carrier failed to meet its burden of proof and (2) without prejudice to that position the discipline of ten (10) working days actual suspension is excessive for the offense for which charged.

(b) As a consequence of such action, (1) Carrier be required to remove all reference of such investigation from Claimants record, and (2) make Claimant John R. Williams whole for all earnings lost and expenses incurred resulting from such discipline, including overtime lost, if any, pursuant to paragraph (h) of S&C Rule 701." [General Chairman File: 82-35-PM. Carrier File: SG-675]

OPINION OF BOARD: Claimant was subject to an investigative hearing on the charges of "failure to comply with company rules requiring that alleged injuries be reported on Form CJ-68 promptly, failure to report an alleged injury to your supervisor promptly, and being absent without permission on Monday, August 30, 1982."

Following the hearing Claimant was assessed a ten-day disciplinary suspension.

According to the account of the Claimant, he "slipped" while working on a hot box detector system on Wednesday, August 25, 1982, but did not believe the injury serious enough to report at the time. When the condition worsened, he sought medical attention on Monday, August 30, 1982, and filed an injury report on Tuesday, August 31.

The Carrier argues that the Claimant was fully aware of the requirements of Safety Rule No. 1 and failed to report his injury on the several occasions for doing so between August 25 and August 31. Safety Rule No. 1 reads in pertinent part as follows:

"Employees must report all personal injuries, regardless of how slight, to proper supervisory officer, giving full details in duplicate on Form CJ-68 before ending tour of duty or as soon thereafter as possible. . . ."

There further appears to be no question that the Claimant failed to seek permission or even to give notification of his absence from his assignment on August 30.

The Organization cites Rule 811, which reads as follows:

"Employees injured while on duty will not be required to make an accident report before they have been given proper medical attention and are in physical condition to do so."

The Organization argues that this Agreement Rule must supercede Carrier's unilateral Safety Rule No. 1. The Board need not resolve such alleged conflict, however. Claimant failed to act promptly under either rule, waiting at least a full day after medical treatment. Further, he did not make a timely report of the matter to his Supervisor as required by the Safety Rule. Reporting to a Supervisor is not the subject of Rule 811.

In addition, the Claimant was admittedly absent without permission on August 30.

The Carrier met its burden of proof, and the resulting penalty was not unreasonable.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, find 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. Dwyer - Executive Secretary

Dated at Chicago, Illinois this 13th day of January 1986.

