

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26505
Docket Number MW-25963

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Consolidated Rail Corporation

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

(1) The five (5) days of suspension imposed upon Camp Car Attendant H. T. Wertman for alleged 'Late report of injury sustained 8/6/82, reported 8/9/82.' was without just and sufficient cause (System Docket CR61-D).

(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: The Claimant is a Camp Car Attendant. He was injured on August 6, 1982, at the Enola, Pennsylvania, Yard while on duty. He did not report the injury until August 9, 1982. As a result, he was issued a five (5) day suspension.

The Carrier contends the relevant facts are not in dispute and that the Claimant acknowledged his guilt by admitting he did not report the injury until August 9, 1982. Safety Rule 3000 reads:

"Injured employees must immediately:

(a) Obtain first aid or medical attention if necessary.

(b) Inform immediate supervisor. When person in charge is not in immediate vicinity, inform him at earliest opportunity, but not later than the quitting time of the day of the occurrence."

The Claimant without contradiction testified at his Trial that his immediate Supervisor was not present on Friday, August 6, 1982. He said he did not have the Supervisor's home telephone number. The Claimant also stated he tried to contact J. Breen at 600 Corporate Circle, but got no answer.

The Board, upon review of the complete record, emphasizes that Rule 3000 requires the immediate supervisor to be notified of an injury. The Claimant attempted to do so, but his Supervisor was not on duty. The Claimant exercised poor judgment when he left the property without informing someone in Management he had injured himself. Nevertheless, given the circumstances, the Claimant's attempt to comply should not be overlooked. Given the above, the Board finds the discipline imposed was too harsh and is to be reduced to a letter of warning. The Claimant is to be made whole for any wages lost.

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

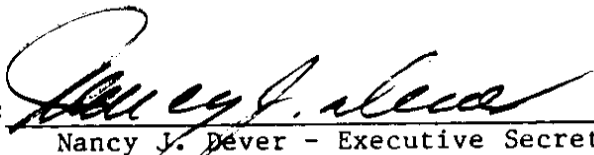
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.