

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

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

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

(1) The reprimand imposed upon MW Repairman J. L. Pritchett by a written record of a 'Safety Discussion' dated November 29, 1984 by Shop Engineer R. Campitello and Assistant Equipment Engineer M. North was improper and in violation of the Agreement (System Docket CR-1401).

(2) Said record of 'Safety Discussion' shall be expunged from the claimant's personnel record."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Organization argues the Carrier issued the Claimant a reprimand on November 29, 1984, without benefit of a hearing as stipulated in Rule 27, Section 2. The record establishes the Claimant attended a safety discussion on November 29 with the Shop Engineer and Equipment Engineers. At the meeting, the injuries the Claimant received between 1980 and 1984 were discussed as well as the procedures to be used to avoid injury in the future.

The Board has recently issued Third Division Award 27805 and hereby adopts the reasoning set forth therein. Accordingly, we find the Organization has not established by a preponderance of probative evidence that the Claimant was issued a reprimand by the Carrier. As in Award 27805, the Carrier did not charge the Claimant or accuse him of an Agreement violation. A warning is clearly distinguishable from a reprimand and, if entered upon the Claimant's discipline record, would at most constitute an "unfavorable mark."

Form 1
Page 2

Award No. 27807
Docket No. MW-27092
89-3-86-3-141

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 29th day of March 1989.