

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

(CSX Transportation, Inc. (formerly The Seaboard Coast Line
(Railroad Company)

PARTIES TO DISPUTE: (

(Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

"(1) The Agreement was violated when the Carrier assessed C. K. Osborne a 15 day suspension for his failure to report an alleged on duty injury. [Carrier's file 12 (89-806), Organization's file CKO-89-49].

(2) As a consequence of the aforesaid violation, Mr. C. K. Osborne's personal service record be cleared of this incident and that he be compensated for any loss resulting from the suspension if actually served."

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 Claimant was notified of an Investigation concerning his alleged failure to report an injury, in violation of Carrier Rules which require that any personal injury (while on duty or on Company property) be reported immediately to appropriate personnel unless the employee is physically unable to do so.

Subsequent to the Investigation, the Carrier imposed a fifteen (15) day suspension.

The record shows that the Claimant was injured on the morning of May 25, 1989, while he was carrying a cross-tie. He testified that he felt a pull, "...kind of a shocking sensation go from the lower part of my back down the left leg." However, because he thought that it was no "major problem" he did not make any written or oral report that day prior to leaving work to drive home.

When the Claimant reached his home, after a lengthy drive, he did feel discomfort, but minimized the pain. The pain persisted on the following day, but once again he dismissed the matter and did not attempt to make a report. Finally, on May 27, 1989, he notified a Roadmaster for whom he worked previously, since he could not make contact with his Supervisor. He was advised to seek medical assistance, and to notify the proper authority.

We have limited our review to matters properly raised on the property and find no procedural error, nor do we feel that the Carrier acted in an arbitrary manner when it found guilt and imposed the discipline.

Certainly all of us have experienced momentary and fleeting discomfort which would hardly be classified as an "injury" as such, and we cannot state that every instance of slight pain would fall within the immediate notification proscriptions of the Rule. Nonetheless, when an employee remains silent in such a circumstance, he assumes a risk, and each individual event must be viewed in its own context. Here, the Claimant described something other than a mere trivial jolt to his body. Even if we could justify his silence on May 25, 1989, his continued suppression of the information after the distress continued can hardly be tolerated in light of the rather clear and precise Rule.

The letter of charges advised that the Claimant's personal record would be reviewed, and, in fact, it was. That document shows a February 16, 1988 Letter of Reprimand for failure to report an injury. Certainly the Claimant had been forewarned in this type of circumstance.

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 25th day of June 1991.