

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34219
Docket No. SG-35060
00-3-98-3-812**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard Coast Line
(Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (former Seaboard Coast Line):

Claim on behalf of L.H. Capps to have a letter regarding a coaching and counseling session on January 5, 1998, removed from his record, account Carrier violated the current Signalman’s Agreement, particularly Rule 47, when it imposed discipline against the Claimant without providing him with a fair and impartial investigation. Carrier’s File No. 15(98-46). General Chairman’s File No. SCL/14/98. BRS File Case No. 10704-SCL.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

This claim filed on February 4, 1998 protests the placement of a record of a coaching-counseling session held with the Claimant into his personal file. The Organization alleges that this letter is disciplinary in nature and that the Carrier violated Rule 47 by issuing a written reprimand without a fair Hearing. The Carrier contends that the written record did nothing more than confirm a discussion concerning safety that took place on January 5, 1998, and, by its language reveals that it found no fault or Rule violation, and was thus not disciplinary in nature.

The letter in issue, sent to the Claimant by Train Control Supervisor G. D. Puckett states:

“Subject: Record of Coaching/Counseling Session to Discuss Avoiding Personal Injury

This letter will confirm our conference at 1330 hours on Monday, 05 1998, in my office in Rocky Mount, N.C., to discuss proper procedures for adjusting switches, with particular caution being given to the act of loosening nuts and bolts.

All employees must be alert for all potential hazards during our work assignments, and this includes being aware that a wrench or nut may slip, and how firm footing is an essential part of any task being performed. You are important to the Company, as well as your family and community, and your duties are never urgent enough to risk your personal safety.

As a result of our discussion, we will, in the upcoming job briefings, stress ‘what if’ to every one involved. I have made arrangements for you to attend the first safety certification training on 02/02/98.

This letter is not a form of discipline and will not be used in any subsequent disciplinary proceeding as evidence that you previously violated a Rule. A copy of this letter will be placed on your personal file to document our discussion.”

A careful review of the record convinces the Board that this case falls squarely within the well-accepted approach upholding the Carrier’s right to counsel its employees

and place letters regarding the counseling in their files, so long as the letters do not accuse employees of committing Rule violations or prohibited conduct and are not used by the Carrier as the first step of discipline. See Second Division Awards 8062, 8531, 9522, 12699, 12790, 12923; Third Division Award 29872; Public Law Board No. 5016, Award 5; Public Law Board No. 5917, Awards 31, 32, 33.

The language of the document placed in the Claimant's file in this case does not accuse him of violating any Rules or of engaging in any wrongdoing. It merely stresses the importance of certain safety procedures and advises the Claimant that he will attend upcoming safety certification training. The letter clearly states that it is not disciplinary in nature and will not be used in any future disciplinary proceeding. Under such circumstances, we conclude that the Carrier had the right to place this non-disciplinary letter in the Claimant's personal file without first providing Rule 47 disciplinary protections.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 23rd day of August, 2000.