

Award No. 16

Case No. 9

Docket No. MW-1106

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Illinois Central Gulf Railroad

Statement of Claim 1. Carrier violated the effective Agreement on February 21, 1977, by unfairly and arbitrarily suspending Trackman John Augillard from service for six months.  
2. Claimant Augillard shall be paid for each day's work lost by him commencing on February 21, 1977, and until he is actually returned to work by the Carrier, plus any overtime made by his gang during this same period.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 23, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant Trackman called in to request permission to be off, on Wednesday and Thursday, January 19 and 20, 1977, because he had broken water pipes at his residence which needed to be repaired. Such request was granted. Claimant reported for work on January 21, 1977. He informed his Supervisor that he had injured his back and that he figured it happened when his gang was laying rail on Friday, January 14, 1977.

Claimant was given a notice that a formal investigation would be held on January 31, 1977 to determine his responsibility in connection with his failure to report an injury that he sustained on January 14, 1977. As a result thereof Carrier concluded that Claimant was guilty of having failed to promptly report his alleged injury of Friday, January 14, 1977. He was so notified in writing and suspended from service for a period of six months.

The record reflects that Claimant worked on Friday, January 14, 1977, and that

he made no report of his alleged on-duty injury on that date. Claimant worked on the following Monday and Tuesday, January 17 and 18, 1977 but he again made no reports on those days.

It is clear, in any event, that Claimant was in violation of Rules F and I of the Rules for the Maintenance of Way Structures Department which read:

"F. Personal injuries to employees or known injuries to other persons must be reported immediately to proper authority.

I. Employees who fail to comply with the rules or fail to follow safe practices are subject to discipline.

1. Employees must report promptly to the proper authority any injury sustained on-duty or on company property. Notification of the injury must be made prior to the employees tour of duty and before leaving company property."


There can be no doubt but that Claimant was in violation of the two above quoted rules. The Board finds that the discipline imposed, in light of the extremely serious offense involved, was neither harsh nor unreasonable. In Third Division Award 1171 (Rock) it held:

"In our opinion the nature of the testimony and the inferences which may be legitimately drawn therefrom constitutes sufficient evidence to sustain the conclusion that Claimant was guilty of attempting to subject carrier to fraudulent liability....."

Claimant's past record indicates that he has a propensity towards occurring personal injuries due to carelessness. If it was carelessness on his part which caused him not to report the injury on Friday, January 14, 1977, when it allegedly occurred, until a week later, then the discipline assessed will have served a useful purpose. In any event such discipline was most lenient. In the circumstances the Board will deny this Claim.

Award Claim denied.

  
John Palloni, Employee Member

  
M. J. Hagen, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member