

PUBLIC LAW BOARD NO. 2960

AWARD NO. 69
CASE NO. 68

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The thirty (30) day suspension assessed Trackman Phillip Metoyer for allegedly failing to report an injury and absenteeism was without just and sufficient cause and on the basis of unproven charges. (Organization File 9D-2462; Carrier File D-11-17-403).
- (2) Trackman Phillip Metoyer shall be compensated for all wage loss suffered and have the discipline removed from his record.

OPINION OF THE BOARD:

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and the Carrier involved in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

On September 25, 1981, the Carrier directed the Claimant to attend an investigation on the following charge:

"Charge: To determine your responsibility in connection with being absent from duty without authority from September 21 to

September 25, 1981 and also your responsibility in connection with the alledged (sic) injury you sustained on July 23, 1981 and your failure to report same."

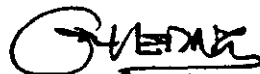
Subsequent to the investigation the Claimant was assessed the discipline on appeal before the Board.

The most significant evidence supports the portion of the charge related to the Claimant's failure to report an injury which occurred on July 23, 1981. There is no dispute that the Claimant repeatedly reported to several supervisors that he had a sore elbow. These reports began shortly after July 23, 1981. However, based on the credible evidence, we can not conclude that he had reported to any supervisor that it was the result of any on-the-job activities until September 30, 1981.

To have properly reported the injury, he would have had to have identified it as an on-the-job injury and identified the circumstances surrounding it as soon as reasonably possible. The fact that he did not justifies the discipline.

AWARD:

The Claim is denied.



Gil Vernon, Chairman



H. G. Harper, Employee Member



J. D. Crawford, Carrier Member

Dated: 