

PUBLIC LAW BOARD NO. 3241

In the Matter of:	)	National Mediation Board
	)	Administrator
BROTHERHOOD OF MAINTENANCE	)	
OF WAY EMPLOYES,	)	
	)	
Organization,	)	
	)	
and	)	
	)	
UNION PACIFIC RAILROAD	)	Case No. 14
COMPANY,	)	Award No. 14
	)	
Carrier.	)	

Hearing Date: March 18, 1986  
Hearing Location: Sacramento, California  
Date of Award: November 9, 1987

MEMBERS OF THE BOARD

Employees' Member: Mr. C. F. Foose  
Carrier Member: Mr. E. R. Meyers  
Neutral Member: Mr. John B. LaRocco

STATEMENT OF THE CLAIM

1. That the Carrier violated the provisions of the current Agreement when it assessed Track Laborer Robert Pompa's personal record with fifteen (15) demerits, said action being inappropriate on the basis of the evidence adduced at the investigation.

2. That the Carrier be required to remove the fifteen (15) demerits from Claimant's record and all reference thereto be cleared from Claimant's personal record.

OPINION OF THE BOARD

This 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 has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated July 23, 1982; and that all parties were given due notice of the hearing held on this matter.

On April 3, 1985, Claimant, a Laborer on Gang No. 4335, reported to work with a partial cast on his left hand. Claimant gave his Foreman a physician's note indicating that Claimant had tendonitis on the three middle fingers of his left hand and that Claimant should be relegated to light duty for the next three days. The Foreman inquired of Claimant as to how he hurt his hand. Claimant responded that he injured his finger while lifting a spike puller machine on an unknown workday about two months before April 3, 1985 when Claimant was working under a different foreman. Claimant explained that he verbally notified his former foreman that he had injured his finger. The foreman allegedly told Claimant that the pain in his finger was probably due to the cold weather and he should seek medical treatment on his own time. Because Claimant thought the injury was minor, he did not file a Form 2611-R Personal Injury Report on the day he suffered the injury. Claimant also attested that the General Roadmaster had admonished employees for reporting every little accident.

On the next day, April 4, 1985, Claimant wanted to complete an accident report and thus his Foreman supplied him with a form. During the next week, Claimant did not bring the completed form to work and so finally, on April 10, 1985, the Foreman made

Claimant complete the Personal Injury Report. In the box on the report entitled "Date of Accident," Claimant wrote "Don't Recall."

Following an April 18, 1985 investigation, the Carrier assessed fifteen demerits on Claimant's personal record for failing to promptly report an on-duty injury purportedly sustained approximately two months before Claimant completed the April 10, 1985 Personal Injury form.

The Carrier's rule requiring employees to immediately, if feasible, report an on-duty injury is reasonable and must be strictly enforced. Prompt reporting of personal injuries allows the Carrier to immediately investigate the cause of the injury, correct any hazardous condition before it precipitates additional accidents and, most importantly, to insure that the injured worker receives the necessary medical treatment. In this case, the objective evidence of record demonstrates that Claimant did not report the injury to his fingers on the day that he lifted the spike puller machine. He knew he had hurt himself. Aside from Claimant's bare assertion, there is no evidence in the record demonstrating that the General Roadmaster discouraged employees from filing Personal Injury Reports. Furthermore, since Claimant had been disciplined in the past for an identical offense, he was aware of his obligation to promptly report even minor on duty injuries.

Finally, Claimant evinced a continued unwillingness to report his injury since he procrastinated for more than a week after actually asking the Foreman for a Personal Injury form.

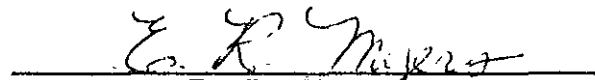
Claimant's unexplained added delay in filing a Personal Injury Report shows that he is cavalier about complying with the Carrier rules concerning on-duty personal injuries.

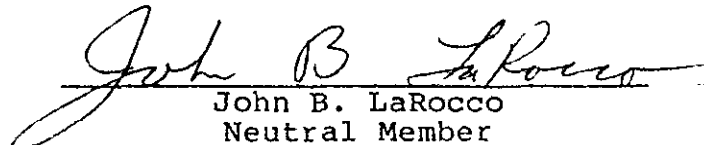
AWARD AND ORDER

Claim denied.

DATED: November 9, 1987

  
C. F. Foose  
Employees' Member

  
E. R. Meyers  
Carrier Member

  
John B. LaRocco  
Neutral Member