

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Seaboard System Railroad

STATEMENT
OF
CLAIM:

Appeal from 15-day suspension imposed upon Trackman
L. Reyna for alleged violation of Rules 10 and 18.

FINDINGS:

The record amply supports Carrier's finding that in violation of Rule 10 claimant unduly delayed reporting to his supervisor that he had sustained a personal injury while on duty. When he complained to Foreman Hodges on August 11, 1982 that his back was bothering him, he indicated that he did not think he had hurt his back while at work. Although claimant was advised at that time and on August 13, 1982, that he would be sent to the company physician for a check-up if he believed he had been injured on the job, he declined to do so and instead performed his assigned duties on August 11, 13 and 16. It was not until August 17 that he indicated that he might have hurt his back while at work.

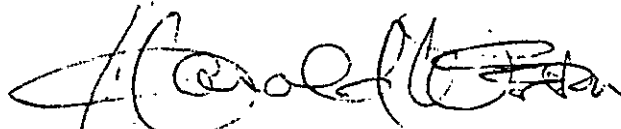
Rule 10 is not unreasonable. Carrier is properly concerned about the employee's welfare as well as its own exposure to

costly litigation. We find no basis for substituting our judgment for that of Carrier as to the discipline administered to claimant.

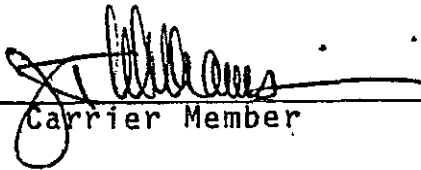
However, we consider it important to admonish Carrier to consider its charges and findings with greater care and concern for an employee's record. There is no evidence to support its finding that Rule 18's provisions as to "dishonesty" and "insubordination" are applicable to this case. Findings of that character should not be made unless supported by substantial competent proof. The suspension will be reduced to 10 days.

AWARD: Suspension reduced to 10 days. To be effective within 15 days.

Adopted at Jacksonville, Florida, May 30, 1985.



Harold M. Weston, Chairman


Carrier Member
Employee Member