

PUBLIC LAW BOARD NO. 4338

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. The discipline (twenty (20) days suspension-deferred) assessed Sectionman W. R. Young for alleged violation of various company rules as indicated in Mr. Gary Thompson's letter of July 31, 1989, was arbitrary, capricious and unwarranted.
2. The claimant's record shall be cleared of the discipline referred to in Part (1) hereof, and he shall be compensated if he suffers any lost time in this regard.

FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to attend an investigation in Idaho Falls, Idaho on July 18, 1989 to develop the facts and determine responsibility on charges he allegedly sustained injury to the fingers of his right hand on June 8, 1989 and did not report the incident as required until July 7, 1989 in possible violation of General Rules E, I, 600 800, 803, 804, 4000, 4008(A), 4008(B) and 4014 of Form 7908, Safety, Radio and General Rules for All Employees.

D. J. Kula, Track Maintenance Manager, testified that his responsibility included Section 6092 at Idaho Falls, and the claimant was a member of that gang. He stated that the claimant and Richard Cordona, the Section Foreman, came into his office on July 7 and the claimant asked for an accident report.

Mr. Kula testified that he asked the claimant why he wanted the accident report, and he showed him his finger and said that on June 7 or 8 while they were unloading drill (I think it was drill, saw?), he sliced his finger open with the box.

Mr. Kula also testified that the claimant advised him he went to the doctor because his finger was swelled up, and he thought it was full of some liquid and the doctor would drain it, but the doctor had him take x-rays. He testified he guessed the x-rays showed he had a chipped bone in there and this was why he wanted to fill out an accident report.

Mr. Kula testified that he was available on June 8 by radio communications, and the policy on the district was that any manager must be

notified of any injury. He stated he was never notified by anyone of this incident prior to July 7.

Mr. Kula also testified that Relief Foreman Wynn Hibbert and Earl Cannon were present. He stated that he questioned Mr. Hibbert as to why he had never reported the cut, and Mr. Hibbert replied that he did not believe it was serious.

Relief Foreman Hibbert accepted the responsibility for failing to make out the accident report and was assessed discipline for not doing so.

The claimant testified he had been with the railroad for 34 years and had never filled out an accident report. He stated that he had been in accidents before, but the foreman or somebody else had filled them out. The claimant testified that prior to June 8 he had never been told that he had to make out the accident report when he was injured.

The claimant testified that he went to a doctor approximately one week before he told Track Maintenance Manager Kula that he needed to make out an AX.


The claimant also testified that he showed Relief Foreman Hibbert his finger and told him what had happened. He stated that Foreman Hibbert stated he did not have any accident reports in the pick-up, and the Roadmaster was not in his office, and he looked at the finger and figured maybe it wouldn't be necessary. He testified he put a bandaid on the cut and continued working.

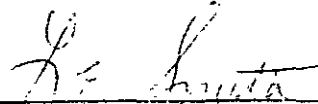
Pursuant to the investigation the claimant was assessed twenty days deferred suspension. The evidence establishes that the claimant did not report the injury as required by the rules. Therefore, there is no justification to set the discipline aside.

AWARD: Claim denied.

DATED: October 9, 1989.


Preston J. Moore, Chairman


Union Member


Carrier Member