

PUBLIC LAW BOARD NO. 6461

Case No. 5

Award No. 5

PARTIES

Brotherhood of Maintenance of Way Employees

To

- and -

DISPUTE:

Grand Trunk Western Railway

STATEMENT OF CLAIM:

Appeal of Melvin Thompson, to have
the discipline of 15 demerits removed
from his record.

FINDINGS: On June 28, 2001, the claimant was given a notice charging him with the following
offense:

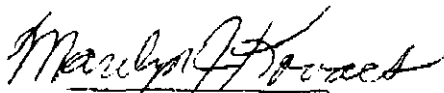
"Failure to follow direct instructions given to you by Supervisor
G. Duddleson on Thursday June 21, 2001, regarding the reporting
of personal injuries to him immediately upon occurrence, when you
failed to report an injury sustained by Welder Helper, J. Wiberg at
approximately 1330 hours, Monday, June 25, 2001 until 1837 hours
June 25, 2001."

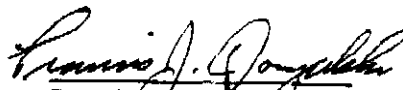
Subsequent to a hearing held on July 10, 2001, the claimant was found guilty of the offense
for which he was charged, and he was assessed discipline in the form of a 3 day suspension and
20 demerits. On appeal, the Carrier reduced the discipline to 15 demerits.

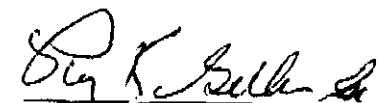
We have thoroughly reviewed the hearing transcript and find that we cannot sustain the
Carrier's position in this case. In our view, under the facts and circumstances surrounding Mr.
Wiberg's alleged injury, particularly noting his reluctance to accede to several of the claimant's
requests, we deem the claimant did everything that could be reasonably expected of him.

On the basis of our review of the record, we find the Carrier failed to meet its burden of proof
in this case. Therefore, the discipline will be removed from claimant's record.

AWARD: The claim is sustained.


Marilyn J. Kovacs
Carrier Member


Francis J. Domzak
Neutral Member


Perry K. Geller, Sr.
Organization Member

Dated: 9-23-02