

PUBLIC LAW BOARD – NO. 6461

Case No. 18

Award No. 18

PARTIES

Brotherhood of Maintenance of Way Employees

to

-and-

DISPUTE:

Grand Trunk Western Railway

STATEMENT OF CLAIM:

Appeal of the discipline of dismissal imposed on
Christine Ladd, effective April 21, 2005.

FINDINGS: On March 22, 2005, claimant was given a notice charging her with the following offense:

“To determine whether or not you falsified a personal injury report which you filed on March 21, 2005 and also whether or not you gave false information with regard to your alleged personal injury.”

At the outset, from our review of the lengthy joint (Ladd & Richert) investigation, we found no improprieties and deem the claimant was afforded a fair and impartial investigation.

By way of background, the claimant alleges that while in the process of getting a rail drill from a tool box located in the back of the Welders Truck, the truck moved, and the jerk of the truck caused her to drop the drill causing her back to pop. The claimant testified (pg. 28) that she was in the truck for approximately 15 minutes prior to the movement of the truck by Mr. Richert. She further testified that she had no conversation with Mr. Richert regarding the movement of the welders truck.

Conversely, Mr. Richert gave an entirely different version of what transpired. Mr. Richert states that K. Erwin, the operator of the Payloader, asked him to move the welder's truck so that he could dump his load of stone. He stated that he saw the claimant standing along side of the truck and asked her twice if she would move the truck, however, he said except for her giving him a stare, she did not respond to his request. Therefore, Mr. Richert said he performed a safety “walk-around” the truck and then proceeded to back it up, noting that he saw the claimant

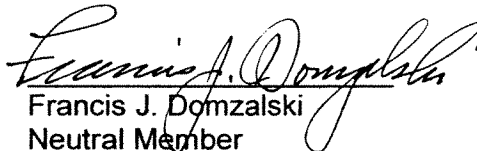
in the passenger side mirror walking along side the truck as he moved. He steadfastly stated the claimant was not in the vehicle when he moved it.

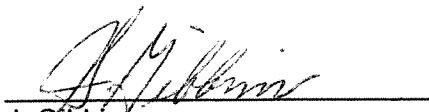
The record shows that contrary to the claimant's assertions, three eyewitnesses from the same bargaining unit, who gave prior written statements, testified without reservation that they saw the claimant on the ground and on the passenger side of the truck while it was being moved by Mr. Richert. In addition, K. Erwin, the Payloader operator, testified that he saw Mr. Richert perform the safety "walk-around" prior to moving the truck and, stated that from his vantage point he did not see anyone in the back of the vehicle.

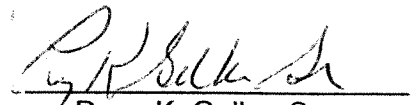
After due study of the entire record, including the arguments presented by the parties in support of their respective positions in this case, the Board finds the claim to be non-meritorious. We found the claimant's self-serving testimony to be contradictory, evasive and specious.

The Board finds substantial and convincing evidence was adduced by the Carrier to prove the claimant acted in a dishonest manner. Therefore, given the established facts of this case, and in consideration of the seriousness of the proven offense, we find the Carrier was on valid grounds when it assessed discipline. Thus, we will not intervene in this matter.

AWARD: The claim is denied.


Francis J. Domzalski
Neutral Member


J. Gibbins
Carrier Member


Perry K. Geller, Sr.
Organization Member

Dated: 9-3-05