

PUBLIC LAW BOARD NO. 4021

Award No. 3
Case No. 5

PARTIES
TO
DISPUTE

The Brotherhood of Maintenance of Way Employees
and
The Atchison, Topeka & Santa Fe Railway Company

STATEMENT
OF CLAIM

1. Carrier's decision to remove Albuquerque Division Trackman P. M. Chavez from service effective November 30, 1984, was unjust.
2. Accordingly, Carrier should be required to reinstate Claimant Chavez to service with seniority rights unimpaired, and to compensate him for all wages lost from November 30, 1984.

FINDINGS

This Board, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by Agreement dated November 26, 1985, and has jurisdiction of the parties and the subject matter.

On October 9, 1984, Claimant submitted a Carrier Form 1421 Standard, reporting that he had suffered a job-related injury on July 2 or 3, 1984, at about 1:00 P. M., near Williams, Arizona. On October 22, 1984, Claimant was instructed to attend an Investigation for alleged violation of Rules 1, 2, 14, 16 and 30 of Carrier's General Rules for the Guidance of Employees, when he allegedly made a late and false report of the injury. The Investigation was held on November 5, 1984, and Claimant was discharged from the service of the Carrier as a result of the Investigation.

The record reveals that Claimant continued working after the alleged injury, and did not seek medical attention until August 21, 1984, more than six weeks later. Testimony of his Supervisors and co-workers indicates that they were unaware of and unable to detect any evidence of the alleged injury in the days and weeks which followed the date of the alleged injury. Claimant asserts that he verbally advised his Foreman that he had hurt his back; however, the Foreman denied that he was so advised by the Claimant. Claimant asserted that he advised a co-worker that he was injured, but, Trackman Gonzales testified that Claimant made no mention to him of an injury until "around the 31st" of July.

Subsequent to August 21, 1984, Claimant was examined by a series of Doctors, and there is evidence in the record that the Claimant did injure his back. However, there is nothing in the record to indicate that the injury occurred as Claimant indicated on the Form 1421 Standard: that it occurred on July 2, 1984, or at any other time while he was on duty. To the contrary, the testimony of several witnesses, and the Claimant's delay in seeking medical assistance, support the conclusion that his injuries were sustained at another time and place. It is clear that the Hearing Officer reached that conclusion, and we can find no basis to disagree.

Even if Claimant did sustain the injury as he asserts, the record clearly demonstrates his near complete disregard for the Rules of the Carrier. Rule 14 of Carrier's Rules provides, in part:

Employees . . . must not withhold information, or fail to give all the facts, regarding irregularities, accidents, personal injuries or rule violations.

And Rule 30, which deals directly with the matter at hand, provides, in pertinent part:

Employees injured while on duty and who remain on duty through the end of their daily shift or tour of duty must complete and furnish Form 1421 in triplicate, giving time, place and cause of injury, before the end of their shift or tour of duty In all cases of injury the employee must also give his immediate superior officer prompt verbal notice of injury, but not later than end of shift, or tour of duty.


Claimant did not complete and furnish Form 1421 as required by the Rules quoted above, in fact, he did not submit the requisite Form until more than three months after the alleged date of the injury. Claimant admitted during the Investigation that he was familiar with the rules, and offered no reasonable excuse for his failure to comply. We agree with Third Division Award 19298 (Cole), and others, which recognize the Carrier's need and right to be promptly notified of employee injuries. In view of the fact that Award 19298 involved the same property and the same General Rules, we will follow that Award.

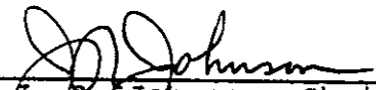
The Board finds that the Claimant received a fair and impartial Investigation, and that the record supports a finding of Guilt. Given the seriousness of the offenses, discharge was warranted.

AWARD

Claim denied.


C. F. Foose, Employee Member


L. L. Pope, Carrier Member


J. R. Johnson, Chairman
and Neutral Member

Dated: February 21, 1986