

It is the position of the Claimant that he sustained the injury at about 11:10 AM on November 19, 1981 while assigned to work as a Section Laborer on the Carrier's Bismark Section. An examination

Public Law Board No. 4161 (Award No. 10; Case No. 11)

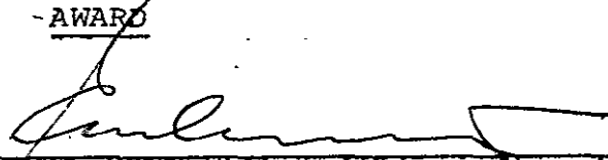
of the record as a whole, including documents signed by fellow workers, as well as testimony presented at the investigation, shows the Section Foreman and fellow crew members deny that the Claimant was either advised to throw the switch in question and/or that he was seen doing such on the day in question.

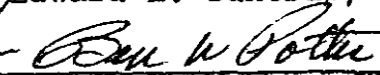
In view of this corroborating evidence, therefore, the Board can but conclude that the position presented by the Claimant in the record and on the F-27 Form filed on November 20, 1981 is self-serving and that it must be viewed in that light in the deliberations of this Board. Further, the Claimant had a history of personal injuries to his back and was restricted, according to testimony presented at the investigation by the Roadmaster, to light duty. If the Claimant had, in fact thrown a switch, he did so in contravention of orders given to him by supervision.


There is sufficient substantial evidence in the record to warrant the conclusion that the Claimant was less than honest when he filed the accident report on November 20, 1981. The Claimant may have indeed injured (or re-injured) his back somehow prior to filing the F-27 Report. There is simply insufficient evidence to permit the conclusion that the Claimant injured himself when he claimed he did, and as the result of orders. Arbitral forums in the railroad industry have consistently held that dishonesty by employees merits discipline (PLB 3311, Award 13; Third Division 11741 inter alia). The instant case must be decided in line with the precedent found in this line of Awards.

-AWARD

Claim denied.


Edward L. Suntrup, Neutral Member


B. W. Potter, Carrier Member


Karl P. Knutsen, Employee Member

Date: March 9, 1987