

PUBLIC LAW BOARD NO. 4338

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

STATEMENT OF CLAIM:

1. The discipline (60 days suspension) assessed System Gang employee Alexander Teller for alleged violation of various company rules as indicated in Mr. D. C. Jones' letter of July 13, 1989, was arbitrary, capricious and unwarranted.

2. The claimant's record shall be cleared of the discipline referred to in Part (1) and he shall be compensated for all time lost.

In this dispute the claimant was notified to attend a hearing in Browns Park, Caliente, Nevada on June 30, 1989 to determine his responsibility, if any, in connection with alleged falsified accident report Form 52032 which was completed on June 13, 1989 as concerned accident which was alleged to have occurred in April of 1989, indicating a possible violation of General Rules A, B, E and I and Rules 607, 621, and 4004 of Form 7908 effective April of 1985 and revised June of 1986.

Pursuant to the investigation the claimant was assessed sixty days actual suspension commencing July 17, 1989. The transcript contains 72 pages of testimony and several exhibits are also submitted.

In addition to being charged with falsifying the accident report, the claimant was also charged with failure to promptly report and complete the necessary accident report, Form 52032, until June 13, 1989.

Track Supervisor P. C. Egan testified that the claimant told him the accident had happened in Los Angeles, and then about four different stories, such as, it happened somewhere in Los Angeles or in Riverside or across from the outfits which were at Arlington.

Supervisor Egan testified the claimant hadn't mentioned anything to him prior to June 12 regarding his hurting his back. He testified further that the claimant did not tell him he had reported this matter to Rick Crespin, who was the foreman at the time.

The Board has studied all of the testimony. The claimant testified he wasn't sure of the exact date when the accident occurred, but it was about the second or third week in April. The claimant

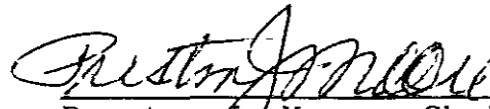
stated that he told Mr. Egan it happened in Los Angeles because they were working down in Los Angeles at the time, and then he told him Riverside, but the location where they were working was in Arlington, so he said Arlington.

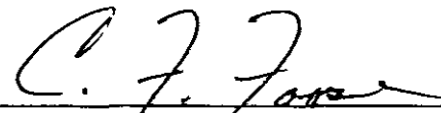
The claimant testified that after the accident he did not report the incident to any supervisor or foreman right away because he thought it was a muscle ache. He stated he did not actually report it, but about two weeks later he did say his back was aching or hurting. The claimant testified he never told Mr. Egan that he had hurt his back while lifting a rail.

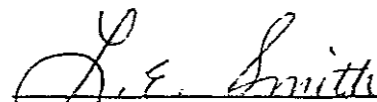
When an employee does not report an injury, the Carrier has no means of determining if the employee was injured while on duty or was injured while off duty. The employee should know that he has a responsibility under the rules to report an accident when it occurs. The employee is not the judge of whether such injury might be serious or not serious; he is obligated under the rules to report such injury to the Carrier. The claimant herein did not do so.

Under the circumstances herein there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member