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PUBLIC LAW BOARD NO. 5418

Case No. 58

Award No. 58

PARTIES

Brotherhood of Maintenance of Way Employees

to

-and-

DISPUTE:

Springfield Terminal Railway Company

STATEMENT OF CLAIM:

Appeal of the discipline of a 5-day suspension
imposed on Work Equipment Repairman, D. Bagley.

FINDINGS: This dispute arose as a result of the claimant being charged with the following
offense:

“Negligence in the performance of your duties. Specifically, on April 29, 2004, at approximately 1100 hours, while employed as a Work Equipment Repairman, you failed to properly repair the 32805 at Ayer, MA. After returning from his assignment you stated that the machine was properly repaired. It was later discovered that the machine had not been repaired. Also on April 27, 2004, at approximately 0900 hours you were instructed to pick up a distributor for the 9011 at NAPA Auto Parts in Ayer, MA. When you returned you stated that the part was not going to be ready until 1300 hours or later. Mr. Francis then contacted NAPA Auto Parts in Ayer, MA. and was told that the part in question was at the store ready to be picked up. Also to be investigated at this investigation hearing are any possible violations of the Springfield Terminal Railway Company Safety Rules, specifically, but not limited to Rules GR-L and GR-C.”

Facts involved in this dispute shows that on April 29, 2004, the claimant was told by Mr. Musgrave that there was a problem with “the Pin” on the 32805 Bucket Loader and he instructed the claimant to check it out.

At claimant’s investigation, Mr. Musgrave testified that the claimant reported back to him and said he had worked on the machine and that it “was all set”. However, he was later informed by others that the machine still had problems, and it was necessary to send the claimant back to look at the machine the following day. Upon examination of the machine, the claimant found

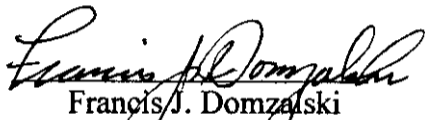
that a "carriage pin" was missing and he subsequently repaired it.

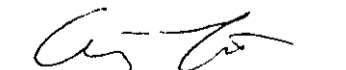
In his defense, the claimant disagreed with Mr. Musgrave's testimony. His recollection of his conversation with Mr. Musgrave, the claimant states that he was told that they were having a problem with the "attachment pin" on the Bucket Loader and they couldn't put on the attachments. He states that in his examination he found no problems with the "attachment pins" and therefore, he performed preventive maintenance on them while he was there.

After a thorough review of the record, we find the Carrier's instructions to the claimant clearly lacked specificity. However, we also find that the claimant being a seasoned repairman should have given the machine more than a superficial examination. The claimant readily admitted that he should have spent more time checking out the machine.

Considering all factors involved in this case, we support the Carrier's conclusion that discipline was warranted. However, while we do not minimize the claimant's actions, considering the mitigating circumstances, and the claimant's tenure and relatively good service record, we deem the discipline assessed is excessive. Therefore, the discipline shall be reduced to a two day suspension.

AWARD: As specified in the Findings.


Francis J. Domzalski
Neutral Member


A. F. Lomanto
Carrier Member


B. A. Winter
Organization Member

Dated: 12-16-04