

PUBLIC LAW BOARD NO. 6237

**AWARD No. 3
CASE No. 3**

**PARTIES TO
THE DISPUTE:** **Brotherhood of Maintenance of Way Employees**

vs.

Union Pacific Railroad Company

ARBITRATOR: **Gerald E. Wallin**

DECISION: **Claim denied.**

DATE: **April 26, 2001**

DESCRIPTION OF CLAIM:

The discipline in question arose from an alleged late report of a personal injury. Claimant J. Yokoyama, Jr. did not complete a written injury report form until August 25, 2000. He reported an injury date of December 14, 1999 on the form.

Following investigation held September 26, 2000, Carrier determined Claimant to have violated Rules 1.1, 1.1.3, 1.2.5, and 1.13, all of which relate to timely reporting of injuries or rule compliance. Claimant was assessed Level 2 discipline consisting of a one day alternative assignment with pay to develop a Corrective Action Plan.

The Claim seeks to overturn the discipline.

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

As a procedural matter, the Organization challenged the timeliness of the investigation by contending that the Carrier had knowledge of the alleged injury in December of 1999. Rule 48 required that the investigation be held, if at all, within thirty days of that first knowledge. The Board finds this objection to lack merit. Substantial evidence in the record supports the hearing officer's determination that the Carrier did not learn of Claimant's injury until August 24, 2000. Since the investigation was originally scheduled to be held on September 21, 2000, the scheduling was in compliance with Rule 48.

On the merits, the Board finds the record to contain substantial evidence, including Claimant's admissions, that he did not properly report his alleged injury in a timely manner. Accordingly, we find no proper basis for disturbing the discipline assessed.

AWARD:

The Claim is denied.


Gerald E. Wallin, Chairman
and Neutral Member