

PUBLIC LAW BOARD NO. 7585

Case No. /Award No. 59
Carrier File No.: 10-15-0328
Organization File No.: C-15-D040-22
NMB 106
Claimant: C. K. Jasnoch

BNSF RAILWAY COMPANY)
(former Burlington Northern Railroad Company))
)
-and-)
)
BROTHERHOOD OF MAINTENANCE)
OF WAY EMPLOYEES DIVISION - IBT)

FACTS:

Claimant was issued a formal reprimand with a twelve month review period for failure to timely report an injury.

CARRIER POSITION:

On October 1, 2014, Claimant Jasnoch fell while he was spiking. At the time, his manager was Roadmaster Eric Smith. Rule 1.2.5 requires personal injury while on duty to be immediately reported to the proper manager. It was not until Oct. 6 that Claimant notified Smith. Foreman Doug Hyatt testified that Claimant did not tell anyone on the gang that he hurt himself. According to Hyatt, Claimant sent a text simply saying he was going home because of his back but did not say it was attributable to an injury while on duty. In the Carrier's view, Claimant was noncompliant with Rule 1.2.5 and the discipline was justified.

ORGANIZATION POSITION:

On the day of the injury, Claimant texted Hyatt stating: "The wife's coming to get me. I'll be back soon as I'm healed up...no good to you as I am." Claimant testified that he believed Hyatt knew of the injury, not only because of the text but also because of the circumstances; Hyatt saw him struggling in his walking plus Claimant sat in his truck for an hour and Hyatt said nothing about it. In Claimant's view, reporting it to his first in command complied with the rule: "he's my manager." Claimant went on to explain that Smith was not his immediate supervisor. "He's

not the one that gives me my orders in the morning. He's not the one that puts my time in at the end of the day." TR 45-46. In his view, his manager knew about his injury.

DECISION:

Rule 1.2.5 states as follows: "All cases of personal injury, while on duty or on company property, must be immediately reported to the proper manager and the prescribed form completed." It is the responsibility of the employee to know what the rules are and to comply. Claimant should have known his foreman was not a manager. If Claimant was not sure who his "proper manager" was, he could have asked.

Claimant testified that a hose caught behind him while he was spiking and he went down. Hence, his injury resulted from a clearly identifiable moment of impact. Claimant then said he had trouble walking and sat in his truck for an hour. These facts confirm that there was an impact with resulting injury on Oct. 1, 2014, triggering application of Rule 1.2.5. This rule expressly requires managerial notification as well as completion of the "prescribed form."

There is no evidence that any form was submitted after the Oct. 1 injury. Further, Claimant's text to Hyatt did not constitute notification of an on-the-job injury. His assumption that Hyatt knew because he had trouble walking and sat in his truck is just that: an assumption. Assumptions do not meet the clearly articulated requirement that on-duty injuries be reported. It follows that Rule 1.2.5 was violated.

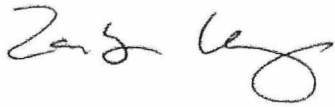
AWARD:

The claim is denied.

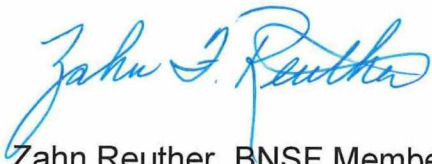
November 29, 2017; Park City, Utah



Patricia T. Bittel, Neutral Member

A handwritten signature in black ink, appearing to read 'Zach Voegel', with a stylized, cursive script.

Zachary Voegel, Organization Member

A handwritten signature in blue ink, appearing to read 'Zahn Reuther', with a stylized, cursive script.

Zahn Reuther, BNSF Member