

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037 NATIONAL MEDIATION BOARD

Case No. 11

DEC 3 3 39 PM '90

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: CSX Transportation, Inc.

NATIONAL RAILROAD
ADJUSTMENT BOARD

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

Ninety (90) day suspension assessed to K. L. Hall, ID# 171839, as a result of investigation held July 20, 1990 at Tampa, Florida."

FINDINGS:

As a result of a personal injury sustained on May 23, 1990, it was noted that the personal service record of Claimant K. L. Hall reflected a history of personal injuries. A letter was sent to the Claimant directing him to attend a formal investigation to determine the following:

...to develop the facts and place your responsibility, if any. You are being charged with being careless and accident prone.

A formal hearing was held on July 20, 1990, and as a result, Claimant K. L. Hall was suspended for ninety (90) days. The Organization thereafter filed a claim on Claimant's behalf, challenging his suspension.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being careless and accident prone over the course of his employment with the Carrier. The records supplied by the Carrier indicate that the Claimant had an injury rate far in excess of any of the other employees in a sample group taken from those who had approximately the same amount of seniority as the Claimant. In the period 1982 through 1990, the

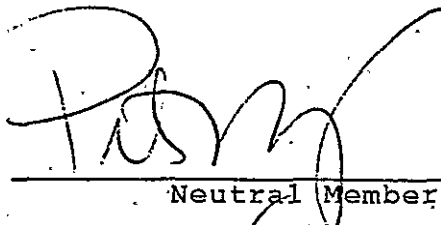
Claimant had a 20% injury rate whereas most of the employees had injury rates between 2% and 8%. There was sufficient evidence in the record to support the finding that the Claimant was guilty of being careless and accident prone while on the job.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant compiled an unacceptable safety record and despite all of the injuries and time lost on the job, he did not improve his record. Therefore, this Carrier had a sufficient basis to issue the Claimant a 90 day suspension.

Award:

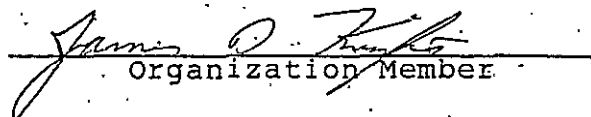
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 11-27-90