

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 4

NATIONAL RAILROAD  
AUG 13 1 14 PM '90  
ADJUT. GENERAL

PARTIES: Brotherhood of Maintenance of Way Employees  
TO :  
DISPUTE: CSX Transportation, Inc.

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

Five day suspension assessed F.L. Dodds, ID #175116  
as a result of investigation held May 23, 1989, at  
Jacksonville, Florida."

FINDINGS:

Claimant was charged with violation of Rule 78 of the CSX  
Transportation's Safety Handbook when on March 16, 1989, at 3:05 p.m.  
at 3019 Warrington Street, Jacksonville, FL, on the 2nd floor of the  
Dispatcher Center, while on duty not wearing any type of safety  
glasses.

A formal hearing was held on May 23, 1989, and as a result,  
Claimant was issued a five day actual suspension. 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 the safety violation for  
failing to wear his safety glasses on the date in question.

Although the Claimant argues that he had to clean them and that  
he took them off to do that, he was not in the act of cleaning them  
when he was stopped by his supervisor. If the Claimant needs to clean  
his glasses, he should stop, take them off, clean them and put them  
back on. He should not put them in his pocket or some other place.

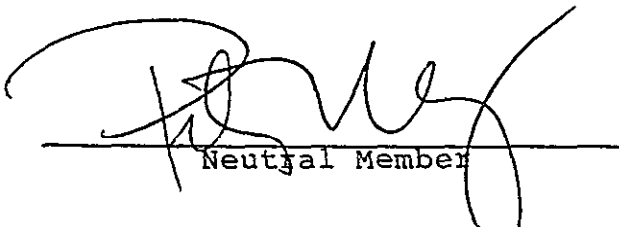
Just as when one gets a dirty windshield when he is driving, one pulls over to the side, cleans the windshield, before going forward. The fact that the glasses were dirty is no excuse.

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.

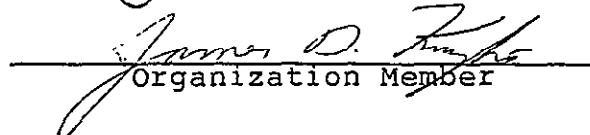
A five day suspension for this safety rule violation is not unreasonable given the length of service of the Claimant and his previous letters of caution for safety related matters. Therefore, the claim will be denied.

Award:

Claim denied.

  
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Neutral Member

  
\_\_\_\_\_  
Carrier Member

  
\_\_\_\_\_  
Organization Member

Date: July 30, 1990