

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 16

PARTIES: SOO LINE RAILROAD COMPANY  
TO :  
DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Riley D. Duzan discipline.

FINDINGS:

On October 21, 1993, the Claimant was notified by the Carrier that subsequent to a formal investigation, he had been found guilty of placing himself in an unsafe position which resulted in a personal injury on May 13, 1993 when he was hit by another employee, one Mr. Gonzales. The Claimant was assessed a ten day deferred suspension from service with a one-year probationary period.

On October 25, 1993, the Claimant advised the Carrier of his intention to appeal the discipline under the provisions of the Agreement of June 1, 1990.

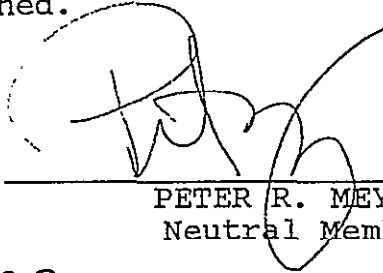
This Board has reviewed the evidence and testimony in this case and we find that the Carrier has not presented sufficient evidence that the Claimant was guilty of engaging in an unsafe work practice on May 13, 1993. Numerous Boards have held in many cases in the past that simply because an accident occurs which involved an employee it does not necessarily mean that the employee had been involved in a rule violation or engaged in unsafe work practices legitimating the imposition of discipline. The Carrier in every case has the burden to present sufficient

proof that an employee actually broke a rule or did something or omitted fulfilling a work requirement which led to the accident in order for the Carrier to have the right to impose discipline against that employee for the fact that the accident occurred.

In this case, a thorough review of the transcript indicates that there was simply insufficient evidence presented of any wrongdoing on the part of the Claimant to support the imposition of discipline. Therefore, the claim must be sustained and all discipline must be removed from the Claimant's record.

AWARD

Claim sustained.



PETER R. MEYERS  
Neutral Member

Dated: 11-29-93