

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES)
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM:

"1. Carrier violated the effective Agreement when North of Texarkana Laborer D. L. Qualls was unjustly suspended for thirty (30) calendar days for the alleged violation of Company Rules M and M801.

2. Claimant Qualls shall now be paid for all time lost and his record cleared of all charges, this plus any compensation he may have drawn for the above dates." (MW-85-29-Qualls; 53-831)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The record as developed on the property having failed to substantiate that Claimant was guilty as charged of violation of Rules "M" and "M801" of Carrier's Rules and Regulations for the Maintenance of Way Department, the claim will be sustained.

In this respect, the Board is not persuaded by Carrier arguments that Claimant had represented to the Jefferson Regional Medical Center in Pine Bluff, Arkansas that he had sustained an on the job injury or that he had directed the hospital to bill Carrier for treatment as an on the job injury. As developed at the company hearing, the Claimant said he went to the hospital while off duty on a Sunday to see what was wrong with his neck before going back to duty and that he did in fact work the following Monday, November 26, 1984. Further, Claimant submitted that while at the hospital he had "told the lady there at the desk I did not get hurt on the job," and that it was not his intent to claim an on the job injury because there was no injury to report.

In the Board's opinion, if Carrier had reason to believe Claimant had in fact given the hospital information contained on the treatment record which was attached to a bill which the hospital had forwarded to Carrier's claims department, i.e., stating Claimant had been hurt on the job, it was incumbent upon the Carrier to have more fully developed the basis for its contentions either through written attestations of the hospital administra-

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tive office or by direct testimony of the person who had filled out the hospital report.

AWARD:

Claim sustained.



Robert E. Peterson, Chairman
and Neutral Member



R. O. Naylor
Carrier Member



M. A. Christie
Organization Member

Houston, TX
August 29, 1986