

SPECIAL BOARD OF ADJUSTMENT NO. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
And
ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by improperly administering discipline of a ten-day suspended sentence to Mr. Theodore Gerrick on a charge of his failure to observe Safety Rule 728 on January 30, 1964, which charges the Carrier failed to sustain.
2. The personal record of Dockbuilder Theodore Gerrick be now cleared of such charges as referred to in Part 1 of this claim.

FINDINGS:

The present claim challenges the propriety of a ten-day deferred suspension administered Claimant for violating Safety Rule 728 which reads as follows, in its entirety: "Remove boards with nails protruding and other refuse material promptly."

We are disposed to give management latitude in enforcing safety discipline measures, particularly where they are administered for the caution and benefit of all employees. This is not to say that discipline will be sustained routinely so long as it is based on safety violations. The facts of each case will be scrutinized with care to make certain that the employee is not being unfairly treated.

In the present case there is no evidence in the record that Claimant violated Rule 728 and since Carrier relied solely on that rule in its letter notifying Claimant of his suspension, we have no alternative but to sustain this claim.

AWARD: Claim sustained.

Dated at New York City this 6th day of February, 1969.

/s/ Harold M. Weston

Harold M. Weston, Neutral

/s/ A. J. Cunningham

A. J. Cunningham, Organization Member

/s/ R. A. Carroll

R. A. Carroll, Carrier Member