

SPECIAL ADJUSTMENT BOARD NO. 947

Award No. 21

Case No. 21

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western
Lines)

STATEMENT
OF CLAIM

That the Carrier's decision to suspend Claimant from its service commencing April 21, 1986 through May 12, 1986, was unduly harsh, in abuse of discretion and in violation of the current Agreement.

That because the Carrier failed to prove the charges by introducing substantial evidence that it now be required to compensate Claimant for all wage loss suffered and remove the charges from his record.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter; with this arbitrator being sole signatory.

On April 23, 1986 the Claimant, Mr. J. D. Graham, was advised to be present at the Office of Trainmaster, Sparks, Nevada for a formal hearing on April 25, 1986, to determine his responsibility, if any, in connection with his alleged failure

to report to a proper officer on a proper form an injury he allegedly sustained on Friday, April 18, 1986. Subsequent to the hearing, the Carrier held Claimant had violated Rule 806, first paragraph, which reads:

REPORTING: All cases of personal injury, while on duty, or on company property must be promptly reported to proper officer on prescribed form.

Based on their findings, they suspended the Claimant from April 21, 1986 through May 12, 1986.

Rule 806 of the Rules and Regulations of the Maintenance of Way and Structures is a reasonable rule. It was obviously established to insure the proper and immediate treatment of injuries, as well as, an assurance against abuse of personal injury situations. It is generally unacceptable for an employee to leave Carrier property and then days later claim to have been injured. It puts the Carrier in an untenable position where rule violations and liabilities are concerned.

In reviewing the testimony of Roadmaster, R. Garcia and the personnel record of the Claimant, it is apparent he is a good and conscientious employee. This Board has no doubt the explanation provided by the Employee is credible. Minor burns are in all probability part and parcel of his position. In this case, Mr. Graham's judgement relative to the seriousness of his injury proved wrong. However, that is no indication of malice on his part and at no time did the Carrier suggest his injury

did not occur while he was working.

The suspension issued to the grievant was excessive based on his record and upon his credibility. He is cautioned, however, that in the future he should err by being overly careful in reporting injuries, even though he may deem them minor. It is the responsibility of his immediate supervisors or other appropriate management to assess whether immediate attention and/or further written reports are necessary.

AWARD

The Claim is sustained in part. The suspension is to be reduced to a written warning. The Claimant is to be reimbursed for all wage loss suffered as a result of the suspension from April 21, 1986 through May 12, 1986.

ORDER

The Carrier shall comply with the above Award within thirty (30) days of the date it is submitted.


Carol J. Zamperini, Neutral

Submitted:

August 27, 1986
Denver, Colorado