

SPECIAL ADJUSTMENT BOARD NO. 947

Award No. 23

Case No. 23

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 for a period of twenty-two (22) days, from April 22 through May 13, 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.

Claimant, A. O. Scarburry, was notified on April 22, 1986 he was to be present at a formal hearing on April 24, 1986 (the hearing was actually held on April 29, 1986), at the Plant Manager's Conference Room, Eugene, Oregon, to determine his responsibility

in failing to report a personal injury promptly on April 11, 1986. After the formal hearing he was charged with violating Rule 806 of the Rules of the Maintenance of Way and Structures, as stated in the Northern Region Timetable #1, which reads in part:

806. Reporting: All cases of personal injury, while on duty, or on company property must be promptly reported to proper officer on prescribed form. Employee and his immediate superior must thereafter, without delay, and prior to completion of tour of duty, complete required reports on prescribed forms and furnish other required statements to proper authority.

The Claimant was suspended for a period of twenty-two days commencing April 22, 1986 through May 13, 1986.

The Claimant had been employed with the Carrier for nine years at the time of the injury. The Claimant's record shows he has been injured three times since 1978. For an injury which occurred on June 5, 1981, there was a \$1,000. settlement. The record further indicates there was no accident report received in that instance either.

The Rule requiring employees to report injuries to the appropriate superior is reasonable. It assures proper immediate care and prevents employees from injuring themselves elsewhere and making a claim against the Carrier. Considering his testimony, it is probable Mr. Scarburry was aware of the rule involved, especially in light of his accident of June 8, 1981.

Although his record is hardly what one would refer to as "bad", the fact he has had previous personal injuries indicates he should be aware of the applicable rules. Although his failure to report the accident is deserving of some penalty, especially considering the lapse of ten days between the date of occurrence and the accident report, I believe the twenty-two (22) day suspension issued by the Carrier was excessive. The Claimant should be forewarned that failure to report injuries in the future may lead to ever-increasing penalties.

AWARD

The Claim is sustained in part. The twenty-two (22) day suspension is to be reduced to a ten (10) day suspension. The Claimant is to be reimbursed for any loss of wage, in excess of ten (10) days, he sustained as a result of the twenty-two (22) day suspension.

ORDER

The Carrier is to comply with this Award within thirty (30) days of the date of its submission.


Carol J. Zamperini, Neutral

Submitted:
September 23, 1986
Denver, Colorado